

EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY (ELECTRONIC COMMUNICATIONS) (NO. 2) ORDER 2011

2011 No. 2943

1. This explanatory memorandum has been prepared by the Department for Work and Pensions (DWP) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

A person in receipt of a benefit administered by DWP, Housing Benefit or Council Tax Benefit is required to notify a change of circumstances which they might reasonably be expected to know may affect their benefit entitlement or amount in payment. The purpose of this Order is to enable claimants of State Pension (SP), State Pension Credit (SPC), Incapacity Benefit (IB), Housing Benefit (HB) and Council Tax Benefit (CTB) to satisfy this duty by reporting a death online through the Directgov website.

3. Matters of special interest to the Joint Committee on Statutory Instruments

None.

4. Legislative background

4.1 “Tell Us Once” (TUO) is a service whereby citizens are able use the service to voluntarily notify a birth or a death in a single contact to DWP who are able to share the relevant information with participating central and local Government departments. The TUO notification service currently operates as a face-to-face service, delivered through the local authorities (for birth and death) and a telephone service delivered via DWP (for death only).

4.2 Secondary legislation imposes a duty on benefit recipients to report any changes that affect entitlement or payment of their benefit. Such notifications must generally be made in writing (hard copy) or by telephone. Amendments made in April 2010¹ enabled claimants to fulfil this duty by using the methods set out above in respect of HB/CTB and social security benefits administered by DWP.

4.3 This Order will enable recipients of HB, CTB, IB, SP or SPC to notify a death to DWP by means of an electronic communication, provided the conditions set out in Schedule 9ZC to the Social Security (Claims and Payments) Regulations 1987 (S.I. 1987/1968), and directions given by the Secretary of State for Work and Pensions, are met. Those directions say that benefit recipients must use the method and form set out on the Directgov website. A copy of the directions may be viewed at <http://www.dwp.gov.uk/publications/specialist%2Dguides/>. A hardcopy of the directions may be obtained from Tell Us Once Delivery Partnerships, Level 3, The Adelphi, 1-11 John Adam Street, London, WC2N 6HT.

¹ <http://www.legislation.gov.uk/2010/444>

5. Territorial extent and application

This instrument applies to Great Britain.

6. European Convention on Human Rights (ECHR)

As the instrument is subject to negative resolution procedure, and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

7.1 The TUO face-to-face and telephony notification service for reporting a birth or a death, currently includes 28 Government services within Her Majesty's Revenue and Customs (HMRC), Identity and Passport Service (IPS), Driver and Vehicle Licensing Agency (DVLA), Local Authorities (LAs) and the Department for Work and Pensions (DWP).

7.2 Full implementation of the TUO service began in October 2011, following authorisation by the Cabinet Office Efficiency Group. At the end of November 50% of all local authorities are delivering the service. This is expected to rise to 96% of all the local authority areas in England, Wales and Scotland by the first quarter of 2012.

7.3 Using the TUO service means that the citizen does not have to notify the participating departments or agencies separately. Participating central and local Government departments are able to update their records, and make any necessary adjustments to benefits, credits and other services they provide, without the individual needing to contact each department or show each of them the birth or death certificate. For example, in a case where a husband is in receipt of HB/CTB and SPC on behalf of both himself and his wife, and the wife dies, the husband is able to report her death through personal attendance at a participating LA office or by telephone call to the dedicated telephone number in DWP. The DWP office administering his SPC and the LA office administering his HB/CTB will then be notified of this change through the TUO IT application. At the same time he is able to notify other relevant services such as blue badge services.

7.4 From March 2012 the TUO Programme plans to make the TUO service for notification of death available online in addition to the existing face-to-face and telephony services. The TUO service (death notification) will be accessed via a secure online service which will be delivered via the internet, using the Directgov website. In respect of HB/CTB, claimants will only be able to use the online channel to notify a local authority administering their HB/CTB, if the local authority is participating in the delivery of the TUO service.

7.5 The TUO online channel will enable claimants to report a death electronically which can then be communicated, with their consent, to participating parts of central and local government. Those who do not wish, or do not have the means, to communicate electronically will continue to have the option of reporting a death using the face-to-face service available via the local authorities, the telephony service delivered by DWP or by contacting each department or agency individually.

7.6 The information received from the claimant is recorded on the TUO IT application (designed, administered and owned by DWP) which has the ability to collect, store and share information (and later delete it in accordance with DWP retention of documents policy). With consent, the information is securely passed on to the other relevant departments and agencies. Each receiving department or agency will use this notification to process the change as they would have if the customer had contacted them directly. The information sought from the citizen and forwarded to the departments is proportionate and limited to their business needs and is processed in accordance with the Data Protection Act 1998 and the Human Rights Act 1998.

7.7 Introducing an online channel increases the number of ways that the service can be accessed by the citizen, and will not affect the way the notification of death is passed on from DWP to other local and central Government departments and agencies. Arrangements for storing information will be no less satisfactory with the introduction of this online service because there will be no change in the way the information is stored or shared.

7.8 The additional online channel will provide a potential reduction in the number of people taking up the face-to-face or telephone service because the citizen will be offered a greater choice in the way that they are able to access the TUO service. Those who may find a digital service better suited to their circumstances will be able to access the service online. This would have the effect of reducing the number of times staff delivering the TUO service would be required to assist the TUO customer in providing their information. This is likely to:

- increase TUO service take-up figures (and therefore increase the benefits);
- improve the speed at which information about a death is shared across Government;
- reduce the number of contacts made to services where claimants would otherwise opt to use traditional means of notification instead;
- improve customer service by enabling people to access the services when it's convenient for them.

Consolidation

7.9 Informal consolidation will be included in due course in the Department's 'the Law Relating to Social Security' (the Blue Volumes) which are available on the internet at no cost to the public at:

www.dwp.gov.uk/publications/specialist-guides/law-volumes/.

7.10 Directions made by the Secretary of State for Work and Pensions concerning the use of electronic communications have been consolidated into a single instrument (see link at paragraph 4.3).

8. Consultation outcome

8.1 No formal public consultation has taken place specifically in relation to this Order. This is because TUO online is an extension of an existing service and the Order does not change substantive policy or requirements in benefits legislation; rather it enables benefit recipients who choose to use an electronic communication as an alternative to other methods to report a death to discharge their duty to report the change of circumstances.

8.2 Almost two thousand interviews were carried out with citizens as part of the research commissioned in the early stages of the TUO Programme. This revealed a clear demand for this type of a service to be delivered in person, by telephone and over the internet.

8.3 Local Authority Associations (LAAs) were consulted in connection with the changes proposed to the HB/CTB Regulations. The consultation for these proposals ran from 3 October 2011 to 11 November 2011. This consultation with the LAAs and also separate consultation with the Devolved Administrations demonstrated agreement with the proposals to offer the citizen an additional means of notifying a death.

8.4 These proposals were presented to the Social Security Advisory Committee (SSAC) on 3 November 2011 on an informal basis (there being no statutory requirement to refer). The Committee recognised the benefits of introducing this additional channel and proposed no changes.

9. Guidance

9.1 The changes will mainly affect the people opting to use the service to report a death using the TUO online service. Help and advice is being made available to them through the Directgov portal and will be further supported by the provision of online help text.

9.2 The guidance, which explains how to implement and manage the service, used by those staff delivering the service or receiving notifications from the TUO service, is being updated for when the new service is introduced.

10. Impact

10.1 This instrument has no impact on business or civil society organisations.

10.2 The impact on the public sector of this instrument is negligible as it is purely enabling.

10.3 A full impact assessment (regulatory) has not been prepared for this instrument.

11. Regulating small business

The instrument does not apply to small business.

12. Monitoring and review

Reporting of a death using the TUO online service will continue to be tested, monitored and evaluated through feedback from users of the service, by the TUO Delivery Partnership Division and in collaboration with Directgov, during the six month period following introduction and reported to cross-government stakeholders at the end of the programme reporting stage in the Autumn of 2012.

13. Contact

For additional information please contact Tara Solanki by telephone 020 7962 8055 or by e-mail at Tara.Solanki@dwp.gsi.gov.uk