

EXPLANATORY MEMORANDUM TO
THE INCOME-RELATED BENEFITS (SUBSIDY TO AUTHORITIES)
AMENDMENT ORDER 2016

2016 No. 986

1. Introduction

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

2. Purpose of the instrument

2.1 This instrument amends the Income-related Benefits (Subsidy to Authorities) Order 1998 (“the 1998 Order”): <http://www.legislation.gov.uk/uksi/1998/562>

2.2 The amendments are being made in order to:

- set the level of subsidy payable to local authorities (LAs) in respect of housing benefit which they have paid in the 2015/16 financial year;
- provide incentives through the payment of additional subsidy for that financial year, for LAs participating in the Fraud and Error Reduction Incentive Scheme to carry out activities with a view to reducing fraud and error in relation to the payment of housing benefit;
- put in place the details for the Rent Rebate Subsidy Limitation (RRSL) scheme for the 2016/17 financial year;
- make consequential changes to subsidy payable in respect of certain temporary accommodation in Wales, as responsibility for homelessness now falls to the Welsh Government (Part 2 of the Housing (Wales) Act 2014).

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

Other matters of interest to the House of Commons

3.2 As this instrument is subject to the negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 This Order amends the 1998 Order which provides for subsidy to be payable to LAs administering housing benefit. Amendments are generally made each year to the 1998 Order to meet changing circumstances and policy.

4.2 Articles 2 and 3 of the Order take effect retrospectively and enable final payments of subsidy to be paid after the Order is made. Prior to the Order being made, LAs are paid interim amounts of subsidy.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is Great Britain.
- 5.2 The territorial application of this instrument is Great Britain.

6. European Convention on Human Rights

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

7. Policy background

What is being done and why

- 7.1 LAs have a statutory duty to administer and pay claims for housing benefit. Subsidy is paid by the DWP to reimburse them for both the actual housing benefit that they pay and towards the administration costs involved in processing and maintaining claims. Policies have also been set to encourage LAs to be proactive in reducing fraud and error within such claims.
- 7.2 In advance of the relevant financial year, officials consult representatives of the LAs and subsequently notify them of arrangements for the forthcoming year. During the year, subsidy is paid by instalments, and final (balancing) payments are made after the year has ended following the laying of the relevant amendment Order which sets out the financial arrangements. Section 140F (2) of the Social Security Administration Act 1992 (<http://www.legislation.gov.uk/ukpga/1992/5/contents/enacted>) allows amendments to be made to the 1998 Order before, during or after the year to which it relates.

Amendments having effect for the purpose of determining the subsidy payable for the year beginning with 1st April 2015

- 7.3 Article 2(2) and Schedule 1 prescribe the subsidy for the year beginning on 1st April 2015 with respect to housing benefit administration costs. A new Schedule 1 is substituted into the 1998 Order making provision for this in each LA. The amounts of the subsidy are different for each LA and are based on methodologies agreed with Local Authority Associations (LAAs).

Amendments having effect for the purpose of determining the subsidy payable for the year beginning with 1st April 2016

- 7.4 Article 2(3) and Schedule 2 make provision relating to the continuation of the Fraud and Error Reduction Incentive Scheme (“FERIS”). In FERIS, participating LAs are given incentives through the payment of additional subsidy, to carry out activities with a view to reducing fraud and error in relation to the payment of housing benefit. The Secretary of State sets a threshold for expected performance in reducing fraud and error in a specified period for each such authority based on the authority's performance in making such reductions in a previous equivalent period. Additional payments are then made to the authority, the amounts depending on the extent to which the authority exceeds the threshold for reducing housing benefit payments in each such period by virtue of those activities.
- 7.5 Since 1st April 2016, LAs have been placed in groups based on caseload management information (CMI) for the relevant year beginning with 1st April 2014. CMI is an estimate of how well each LA is managing their housing benefit caseload. The

measure compares the value of the reductions in housing benefit entitlement identified by each LA against the value of reductions DWP expect each LA could potentially identify, given the size and composition of its housing benefit caseload. This estimate is presented as a percentage. DWP are using the CMI data to allocate LAs into one of six FERIS groups; group one had the least amount of fraud and error estimated in their caseload, group six the most. Each group has pre-determined thresholds that represent a percentage improvement in performance which LAs have to achieve in order to meet a performance threshold. The percentage by which that threshold is exceeded, if any, then determines the incentive payment due.

- 7.6 The policies relating to FERIS, including the baseline performance and thresholds set for LAs to support them with this scheme were included in the following HB circulars issued to HB managers in all LAs:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/378098/s10-2014.pdf

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/378111/a17-2014.pdf

- 7.7 In relation to article 3, with a view to encouraging LAs to limit rent increases, Schedule 4A to the 1998 Order provides for an amount to be deducted from the rent rebate given by DWP to a LA where the average rent for dwellings for which the LA is the landlord exceeds the “weekly rent limit” set for the LA by the Schedule.
- 7.8 In order to calculate the amount of the deduction, the Schedule prescribes a “rebate proportion” figure for England and for Wales respectively, being an indicative amount for the proportion by which rent and service charges received by the LA exceeds the amount of rebate paid.
- 7.9 Article 3(3) and (4) apply in relation to the RRSL and respectively substitute two tables for the 2016/17 financial year to set the weekly rent limit for England and for Wales.
- 7.10 The amendment at article 3(2) amends the rent rebate proportion figure for England from 0.746 to 0.752 for the 2016/17 financial year. The Department for Communities and Local Government determines the change and figures are monetary.

Other amendments

- 7.11 Article 4 amends the 1998 Order relating to subsidy in respect of certain temporary accommodation. The relevant articles of the 1998 Order refer currently to accommodation made available under legislation applying in England and in Scotland in order to discharge responsibilities relating to homelessness. The amendments are necessary to refer to accommodation made available under Part 2 of the Housing (Wales) Act 2014 under which homelessness responsibilities in Wales are now discharged.

Consolidation

- 7.12 Informal consolidated text of instruments is available to the public free of charge via ‘The National Archive’ website www.legislation.gov.uk.

8. Consultation outcome

- 8.1 Formal and targeted consultation regarding this Order was carried out with the LAAs during August 2016. One formal response was received from the Convention of Scottish Local Authorities who welcomed the engagement from the DWP. No adverse comments were received due to the prior consultations with the LAAs.

9. Guidance

- 9.1 Guidance relating to housing benefit subsidy arrangements and additional administration subsidy for 2015/16 was issued by the agreed procedure in the subsidy arrangement circulars S6/2014, S7/2014, S8/2014 in November 2014.
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/376885/s6-2014-scotland.pdf
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/376877/s7-2014-wales.pdf
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/376694/s8-2014.pdf
- 9.2 Guidance relating to RRS� for 2016/17 was issued by the agreed procedure in the subsidy arrangement circular S7/2016.
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/529700/s7-2016.pdf
- 9.3 Guidance directed at all housing benefit staff in LAs relating to FERIS was issued in circular A2/2016 and S2/2016 in February 2016.
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/500253/a2-2016.pdf
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/500261/s2-2016.pdf
- 9.4 This guidance is directed at housing benefit managers and staff, fraud managers and staff and officers preparing subsidy claims and estimates. This guidance can be accessed on the internet at:
<https://www.gov.uk/government/organisations/department-for-work-pensions/series/housing-benefit-for-local-authorities-circulars>

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 No new impact on the public sector is foreseen.
- 10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

- 11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

- 12.1 DWP meets LA representatives at monthly intervals throughout the year to discuss new, and review on going, policy and financial matters relating to housing benefit. Any issues of major concern are brought to the attention of DWP Ministers.

12.2 DWP is also committed to monitoring the impacts of its policies and to establishing the extent to which those policies have met their objectives. DWP has commissioned some external research to evaluate the FERIS scheme. The research aims to explore how FERIS has been implemented by LAs, how it has worked in practice and how successful it has been in achieving its overall aims and objectives. There will be a report on the findings of this research in 2017.

13. Contact

13.1 Caroline Todd at the Department for Work and Pensions (Tel: 01253 337078 or email: HBSUBSIDY.QUERIES@DWP.GSI.GOV.UK) can answer any queries regarding the instrument.