

**EXPLANATORY MEMORANDUM TO**  
**THE INCOME-RELATED BENEFITS (SUBSIDY TO AUTHORITIES)**  
**AMENDMENT ORDER 2017**

**2017 No. 900**

**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”)<sup>1</sup>. The 1998 Order makes provision for claims for and the calculation and payment of, housing benefit subsidy.

**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 local authorities (LAs) administering housing benefit. Amendments are generally made each year to the 1998 Order to meet changing circumstances and policy.

4.2 Article 2 of the Order take effect retrospectively and enables 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 negative resolution procedure and does not amend primary legislation, no statement is required.

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<sup>1</sup> <http://www.legislation.gov.uk/uksi/1998/562>

## 7. Policy background

### *What is being done and why*

- 7.1 Local authorities (LAs) have a statutory duty to administer and pay claims for housing benefit. Subsidy is paid by 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<sup>2</sup> allows provisions in the 1998 Order to be made 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 2016*

- 7.3 Article 2(3) and Schedule 1 details the amount of subsidy due to each LA for the year beginning on 1<sup>st</sup> April 2016 towards the cost to the LA, for administering housing benefit. A new Schedule 1 is substituted into the 1998 Order each year making provision for this. The amounts of the subsidy are different for each LA and are calculated 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 2017*

- 7.4 Article 2(2) introduces new Schedule 1ZA. This allows LAs which are participating in the Right Benefit Initiative to receive payment of additional subsidy by carrying out activities with a view to reducing fraud and error in relation to the payment of housing benefit.
- 7.5 Right Benefit Initiative commenced 1<sup>st</sup> April 2017. It replaces the Fraud and Error Reduction Initiative Scheme and it has been designed as an incentive for participating LAs to use optional Real Time Information (RTI) and mandatory Bulk Data Match RTI referrals to target fraud and error relating to earnings.
- 7.6 The amendments in Article 3 are made 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 an LA where the average rent for dwellings for which the LA is the landlord exceeds the “weekly rent limit” set for the LA by Schedule 4A.
- 7.7 In order to calculate the amount of the deduction, Schedule 4A 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.
- 7.8 Article 3(3) and (4) apply in relation to the Rent Rebate Subsidy Limitation and respectively substitute two tables for the 2017/18 financial year to set the weekly rent limit for England and for Wales.

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<sup>2</sup> <http://www.legislation.gov.uk/ukpga/1992/5/contents/enacted>

- 7.9 The amendment at Article 3(2) amends the rent rebate proportion figure for England from 0.752 to 0.739 for the 2017/18 financial year.

#### *Other amendments*

- 7.10 Article 4 amends the 1998 Order so that Local Authorities (LAs) in England must inform the Secretary of State in writing of the identity of the authorities' auditor before 1<sup>st</sup> March in the year before the year for which the subsidy is to be paid.
- 7.11 Article 5 removes references in the 1998 Order to the temporary accommodation management fee as this is no longer subsidised through housing benefit.

#### *Consolidation*

- 7.12 Informal consolidated text of instruments is available to the public free of charge via 'The National Archives' website<sup>3</sup>.

### **8. Consultation outcome**

- 8.1 Formal and targeted consultation regarding this Order was carried out with the Local Authority Associations (LAAs) during July 2017. Four formal responses were received from Convention of Scottish Local Authorities, Manchester City Council, Gateshead Council and Wiltshire Council 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 2016/17 was issued by the agreed procedure in the subsidy arrangement circulars S9/2015<sup>4</sup>, S10/2015<sup>5</sup>, S11/2015<sup>6</sup> published December 2015.
- 9.2 Guidance relating to Rent Rebate Subsidy Limitation for 2017/18 was issued by the agreed procedure in the subsidy arrangement circular S10/2017<sup>7</sup> published June 2017.
- 9.3 Guidance directed at all housing benefit staff in LAs relating to Right Benefit Initiative was issued by the agreed procedure in the subsidy arrangement circulars S6/2017<sup>8</sup> published March 2017 and A7/2017(revised)<sup>9</sup> published July 2017.
- 9.4 The guidance relating to LA assurance and the requirement for LAs in England to appoint an auditor was issued by the agreed procedure in the subsidy arrangement circular S1/2017<sup>10</sup> published January 2017.
- 9.5 Guidance relating to the removal of the temporary accommodation management fee was issued by the agreed procedure in the subsidy arrangement circular S5/2017<sup>11</sup> published March 2017.

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<sup>3</sup> [www.legislation.gov.uk](http://www.legislation.gov.uk)

<sup>4</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/487602/s9-2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/487602/s9-2015.pdf)

<sup>5</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/487606/s10-2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/487606/s10-2015.pdf)

<sup>6</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/487607/s11-2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/487607/s11-2015.pdf)

<sup>7</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/618942/s10-2017.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/618942/s10-2017.pdf)

<sup>8</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/605097/s6-2017.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/605097/s6-2017.pdf)

<sup>9</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/633422/a7-2017.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/633422/a7-2017.pdf)

<sup>10</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/585740/s1-2017.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/585740/s1-2017.pdf)

<sup>11</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/602502/s5-2017.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/602502/s5-2017.pdf)

9.6 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 GOV.UK<sup>12</sup>.

## **10. Impact**

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

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 local authorities' representatives at regular 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.

## **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.

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<sup>12</sup> <https://www.gov.uk/government/organisations/department-for-work-pensions/series/housing-benefit-for-local-authorities-circulars>