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STATUTORY INSTRUMENTS

2009 No. 2580

SOCIAL SECURITY

**The Income-related Benefits (Subsidy to Authorities)
(Temporary Accommodation) Amendment Order 2009**

<i>Made</i>	- - - -	<i>23rd September 2009</i>
<i>Laid before Parliament</i>		<i>29th September 2009</i>
<i>Coming into force</i>	- -	<i>1st April 2010</i>

The Secretary of State for Work and Pensions makes the following Order in exercise of the powers conferred by sections 140B, 140F(2), 189(1), (4) and (7) of the Social Security Administration Act 1992(a).

In accordance with section 189(8) of that Act the Secretary of State has sought the consent of the Treasury(b).

In accordance with section 176(1) of the Social Security Administration Act 1992, consultation has taken place with organisations which appear to the Secretary of State to be representative of the authorities concerned.

Citation and commencement

1. This Order may be cited as the Income-related Benefits (Subsidy to Authorities) (Temporary Accommodation) Amendment Order 2009 and shall come into force on 1st April 2010.

Amendment of the Income-related Benefits (Subsidy to Authorities) Order 1998

2.—(1) The Income-related Benefits (Subsidy to Authorities) Order 1998(c) is amended as follows.

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- (a) 1992 c.5. Sections 140B and 140F were inserted by paragraph 4 of Schedule 12 to the Housing Act 1996 (c.52). Section 140B was amended by paragraph 7 of Schedule 1 to the Social Security Administration (Fraud) Act 1997 (c.47), paragraph 36 of Schedule 7 to the Local Government Act 2003 (c.26) and paragraph 9 of Schedule 5 to the Welfare Reform Act 2007 (c.5). Section 189(1) and (4) 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 Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2) and Schedule 6 to the Tax Credits Act 2002 (c.21); 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.
- (b) Section 189(8) was amended by paragraph 3(5) of Schedule 13 to the Housing Act 1996, paragraph 57(3) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999, paragraph 3 of Schedule 4 to the Tax Credits Act 2002 and paragraph 29 of Schedule 1 to the Pensions Act 2007 (c.22).
- (c) S.I. 1998/562.

(2) In article 14(2)(a) (backdated benefit) for “article 17(2)(a)(i) or (b)(i) or (3)(b)(ii)” substitute “article 17(2), 17A(2)”.

(3) For article 17(b) (subsidy in respect of homeless and short lease rebate cases) substitute—

“Subsidy in respect of temporary accommodation – non self-contained licensed accommodation and board and lodging accommodation

17.—(1) This article applies where—

- (a) a rent rebate is payable by an authority; and
- (b) a person (“P”) is required to pay the authority under section 69(2)(b) of the Housing Act 1985(c), section 206 of the Housing Act 1996(d) or section 35(2)(b) of the Housing (Scotland) Act 1987(e), as the case may be, for—
 - (i) board and lodging accommodation made available to P; or
 - (ii) accommodation which is not self-contained, which the authority holds on a licence agreement with a landlord, and which it makes available to P.

(2) Where this article applies the appropriate amount is the lower of—

- (a) the amount of housing benefit entitlement in a week or part week, as the case may be; or
- (b) the maximum amount determined in accordance with paragraph (3).

(3) The maximum amount referred to in paragraph (2) is the local housing allowance for January preceding the relevant year for the category specified in paragraph 1(1)(b) of Schedule 3B to the Rent Officers Order which is applicable to the broad rental market area in which the accommodation is situated.

(4) For the purposes of this article and article 17A, accommodation is self-contained if P’s household is not required to share one or more of the following with another household—

- (a) a kitchen;
- (b) a toilet;
- (c) a bathroom.

(5) In this article and article 17A—

“broad rental market area” has the meaning specified in paragraph 4 of Schedule 3B to the Rent Officers Order; and

“local housing allowance” means an allowance determined in accordance with paragraph 2 of Schedule 3B to the Rent Officers Order.

Subsidy in respect of temporary accommodation – self-contained licensed accommodation and short lease accommodation

17A.—(1) This article applies where—

- (a) a rent rebate is payable by an authority; and
- (b) a person (“P”) is required to pay the authority—
 - (i) under section 69(2)(b) of the Housing Act 1985, section 206 of the Housing Act 1996 or section 35(2)(b) of the Housing (Scotland) Act 1987 for self-

(a) The relevant amending instrument is S.I. 2005/369.

(b) Relevant amending instruments are S.I. 2001/2350, 2003/3179, 2005/369 and 2006/54.

(c) 1985 c.68. Repealed by the Housing Act 1996, Schedule 19, Part 8 but remains in force for applications made before 20th January 1997.

(d) 1996 c.52.

(e) 1987 c.26.

- contained accommodation, which the authority holds on a licence agreement with a landlord, and which it makes available to P;
- (ii) in England and Scotland, for accommodation outside that authority’s Housing Revenue Account, which the authority holds on a lease granted for a term not exceeding 10 years, and which it makes available to P; or
 - (iii) in Wales, for accommodation which the authority holds on a lease granted for a term not exceeding 10 years, and which it makes available to P.
- (2) Where this article applies, the appropriate amount is the lower of—
- (a) the amount of housing benefit entitlement in a week or part week, as the case may be; or
 - (b) the maximum amount determined in accordance with paragraph (3).
- (3) The maximum amount referred to in paragraph (2) is the aggregate of—
- (a) 90% of the local housing allowance for January preceding the relevant year for the category specified in paragraphs 1(1)(b) to (f) of Schedule 3B to the Rent Officers Order which applies to the accommodation and is applicable to the broad rental market area in which the accommodation is situated; and
 - (b) either—
 - (i) £40 for authorities listed in Schedule 7 (authorities in London); or
 - (ii) £60 for other authorities.
- (4) For the purposes of determining the applicable local housing allowance in paragraph (3)—
- (a) where the total number of rooms suitable for living in and bedrooms in the accommodation is between two and five, at least one of those rooms is to be treated as a room suitable for living in; and
 - (b) where the total number of rooms suitable for living in and bedrooms in the accommodation is six or more, at least two of those rooms are to be treated as a room suitable for living in.”.
- (4) After Schedule 6(a) (electronic communications) add—

“SCHEDULE 7

Article 17A

Authorities in London

Barking and Dagenham
 Barnet
 Bexley
 Brent
 Bromley
 Camden
 City of London
 Croydon
 Ealing
 Enfield
 Greenwich
 Hackney
 Hammersmith and Fulham
 Haringey

(a) Schedule 6 was inserted by S.I. 2007/26.

Harrow
Havering
Hillingdon
Hounslow
Islington
Kensington and Chelsea
Kingston upon Thames
Lambeth
Lewisham
Merton
Newham
Redbridge
Richmond upon Thames
Southwark
Sutton
Tower Hamlets
Waltham Forest
Wandsworth
Westminster”

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

16 September 2009

We consent

Helen Goodman
Parliamentary Under Secretary of State,
Department for Work and Pensions

23 September 2009

Bob Blizzard
Steve McCabe
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), which provides for the calculation and payment of housing benefit and council tax benefit subsidy to local authorities in England, Wales and Scotland which administer those benefits.

Article 2 substitutes a new article 17 and inserts a new article 17A. The substituted article 17 provides for the calculation of subsidy in relation to temporary accommodation held under a licence agreement that is not self-contained or where board and lodging is provided. The new article 17A provides for the calculation of subsidy in respect of temporary accommodation held under a licence agreement that is self-contained, or that is leased on a short lease by a local authority. Article 2 also inserts a new Schedule 7 which lists local authorities that are in London and makes a consequential amendment to article 14.

A full impact assessment has not been produced for this instrument as it has no impact on the private or voluntary sectors.

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