STATUTORY INSTRUMENTS

2015 No. 1784

SOCIAL SECURITY

The Income-related Benefits (Subsidy to Authorities) Amendment Order 2015

Made - - - -	*12th October 2015*
Laid before Parliament	*19th October 2015*
Coming into force - -	*9th November 2015*

The Secretary of State for Work and Pensions makes the following Order in exercise of the powers conferred by sections 140B(1), (3), (4) and (4A), 140F(2) and 189(1), (4), (5) and (7) of the Social Security Administration Act 1992(**1**).

In accordance with section 189(8) of that Act(**2**), the Secretary of State has obtained the consent of the Treasury.

In accordance with section 176(1) of that Act(**3**), the Secretary of State has consulted with organisations appearing to the Secretary of State to be representative of the authorities concerned.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Income-related Benefits (Subsidy to Authorities) Amendment Order 2015 and comes into force on 9th November 2015.

(**1**) 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 section 10 of, and paragraph 7 of Schedule 1 to, the Social Security Administration (Fraud) Act 1997 (c.47) ("the Fraud Act"). Sections 140B and 140F were repealed, to the extent they related to council tax benefit, by section 147 of, and paragraph 1 of Schedule 14 to, the Welfare Reform Act 2012 (c.5) with effect from 1st April 2013 and subject to savings and transitional provisions in articles 9 and 10 of S.I. 2013/358. 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) ("the Transfer of Functions Act") and paragraph 1 of Schedule 6 to the Tax Credits Act 2002 (c.21). Section 189(4) was amended by S.I. 2013/252. 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 Fraud Act. Section 189 was repealed, to the extent it related to council tax benefit, by section 147 of, and paragraph 1 of Schedule 14 to, the Welfare Reform Act 2012 with effect from 1st April 2013 and subject to savings and transitional provisions in articles 9 and 10 of S.I. 2013/358.

(**2**) Section 189(8) was amended by paragraph 3(5) of Schedule 13 to the Housing Act 1996, paragraph 10 of Schedule 4 to the Social Security (Recovery of Benefits) Act 1997 (c.27), paragraph 3 of Schedule 4 to the Tax Credits Act 2002 (c.21), paragraph 29 of Schedule 1 to the Pensions Act 2007 (c.22) and paragraph 57(3) of Schedule 3 to the Transfer of Functions Act.

(**3**) Section 176(1)(b) was amended by paragraph 3(4) of Schedule 13 to the Housing Act 1996 and was repealed, to the extent it related to council tax benefit, by section 147 of, and paragraph 1 of Schedule 14 to, the Welfare Reform Act 2012 with effect from 1st April 2013 and subject to savings and transitional provisions in articles 9 and 10 of S.I. 2013/358.

(2) Article 2(4) and Schedule 1 have effect for the purpose of determining subsidy payable for the relevant year beginning with 1st April 2014.

(3) Article 2(2) and (3) and article 3 have effect for the purpose of determining subsidy payable for—

(a) the relevant year beginning with 1st April 2014; and

(b) any subsequent relevant year.

(4) Article 4 and Schedules 3 and 4 have effect for the purpose of determining subsidy payable for the relevant year beginning with 1st April 2015.

(5) In this Order—

(a) the "1998 Order" means the Income-related Benefits (Subsidy to Authorities) Order 1998(**4**);

(b) "relevant year" means the period of a year beginning with 1st April in any calendar year, in respect of which a claim for subsidy is made.

The amount of an authority's subsidy

2.—(1) The 1998 Order is amended as follows.

(2) In article 12 (amount of subsidy)—

(a) for paragraph (1)(**5**), substitute—

"(1) Subject to paragraph (2), the amount of an authority's subsidy for the relevant year is the sum of the following—

(a) the amount of subsidy calculated in accordance with article 13;

(b) for an authority identified in column (1) of Schedule 1 (sums to be used in the calculation of subsidy), the amount in respect of the costs of administering the relevant benefit specified in column (2) of that Schedule for that authority;

(c) for an authority which is a participating authority for the purpose of Schedule 1A (additional amount of subsidy: activities to reduce fraud and error), the additional amount (if any) calculated in accordance with that Schedule; and

(d) for an authority which has modified any part of a scheme it administers in recognition of the operation of a local scheme under section 134(8) of the Act (arrangements for housing benefit), the additional amount calculated in accordance with paragraph (4).";

(b) in paragraph (4)(**6**), for "(1)(c)" substitute "(1)(d)".

(3) In article 13(1) (relevant benefit)(**7**), for the words from "Subject to" to "paid to an authority" substitute "The amount of subsidy payable under article 12(1)(a)".

(4) For Schedule 1 (sums to be used in the calculation of subsidy)(**8**), substitute the Schedule 1 set out in Schedule 1 to this Order.

(5) After Schedule 1 (sums to be used in the calculation of subsidy), insert the Schedule 1A set out in Schedule 2 to this Order.

(**4**) S.I 1998/562.
(**5**) Paragraph (1) of article 12 was amended by S.I. 2000/2340 and 2006/54.
(**6**) Paragraph (4) of article 12 was inserted by S.I. 2006/54.
(**7**) Paragraph (1) of article 13 was substituted by S.I. 2000/1091.
(**8**) Schedule 1 was substituted by S.I. 2014/1667.

Additions to an authority's subsidy

3.—(1) The 1998 Order is amended as follows.

(2) In article 18 (additions to subsidy), after paragraph (6ZA)(**9**) insert—

"(6ZB) For the purposes of paragraphs (1)(e) and (2), an "authority error overpayment" or an "administrative delay overpayment" does not include an overpayment of a kind to which paragraphs (6ZC) or (6ZD) apply.

(6ZC) This paragraph applies to an overpayment where—

(a) an authority receives real time information in respect of the overpayment which indicates that the overpayment was caused by the incorrect declaration of PAYE employment income or PAYE pension income by the claimant; and

(b) the authority—

(i) has sufficient real time information to make a revision or supersession decision on the claimant's award; and

(ii) makes a revision or supersession decision during the period of 4 weeks beginning with the date on which the authority received the real time information.

(6ZD) This paragraph applies to an overpayment where—

(a) an authority receives real time information in respect of the overpayment which indicates that the overpayment was caused by the incorrect declaration of PAYE employment income or PAYE pension income by the claimant;

(b) the authority has insufficient real time information to make a revision or supersession decision;

(c) the authority requests further information from the claimant; and

(d) the authority makes a revision or supersession decision either—

(i) if the additional information is provided during the period of 4 weeks beginning with the date on which the authority received the real time information ("the 4 week period"), by the end of that 4 week period; or

(ii) if the additional information is provided after the 4 week period has ended, by the Monday following the date on which the additional information is received.

(6ZE) For the purposes of paragraphs (6ZC) and (6ZD)—

"PAYE employment income" has the meaning in section 683(2) of the Income Tax (Earnings and Pensions) Act 2003(**10**);

"PAYE pension income" has the meaning in section 683(3) of the Income Tax (Earnings and Pensions) Act 2003;

"real time information" means information which is reported by a Real Time Information employer or Real Time Information pension payer in respect of the PAYE employment income or PAYE pension income of its employees;

"Real Time Information employer" has the meaning in regulation 2A(1) of the Income Tax (Pay As You Earn) Regulations 2003(**11**);

(**9**) Paragraph (6ZA) of article 18 was inserted by S.I. 2010/2481.
(**10**) 2003 c.1.
(**11**) S.I. 2003/2682. Regulation 2A(1) was inserted by S.I. 2012/822 and amended by S.I. 2013/521.

"Real Time Information pension payer" has the meaning in regulation 2B(1) of the Income Tax (Pay As You Earn) Regulations 2003(**12**).".

Rent rebate deductions from an authority's subsidy

4.—(1) The 1998 Order is amended as follows.

(2) In Schedule 4A (rent rebate limitation deductions (Housing Revenue Account Dwellings))(**13**)—

(a) in Part 2 (England), in paragraph 3 (amount of deduction), for sub-paragraph (3)(**14**) substitute—

"(3) The rebate proportion for 2015-16 is 0.746.".

(b) for Part 3 (weekly rent limits for purposes of Part 2: authorities in England)(**15**), substitute the Part 3 set out in Schedule 3 to this Order.

(c) for Part 5 (amounts for purposes of Part 4, paragraph 4: authorities in Wales)(**16**), substitute the Part 5 set out in Schedule 4 to this Order.

Amendments consequential to the abolition of community charge benefit

5.—(1) The 1998 Order is amended as follows.

(2) In article 11 (interpretation of Part 3)—

(a) omit the definition of "the Community Charge Benefits Regulations";

(b) in the definition of "Overpayment", omit "excess benefits under the Community Charge Benefits Regulations and".

(3) In article 18 (additions to subsidy)—

(a) in paragraph (1)(b)(**17**), omit "community charge benefit or";

(b) in paragraph (1)(b)(ii), omit "community charge benefit or";

(c) in paragraph (8)(**18**)—

(i) omit "community charge benefit or";

(ii) after "regulation 69 of the Council Tax Benefit Regulations", for "of" substitute "or";

(iii) omit "or paragraph (18) of regulation 60 of the Community Charge Benefits Regulations (time and manner in which claims are to be made)".

(4) In paragraph (1)(g)(ii)(**19**) of article 19 (deductions to be made in calculating subsidy)—

(a) omit "paragraph (7) of article 2 of the Community Charge Benefits (Transitional) Order 1989,";

(b) omit "paragraph (18) of regulation 60 of the Community Charge Benefits Regulations,".

(5) In article 20 (deduction from subsidy), omit "or community charge benefit".

(**12**) S.I. 2003/2682. Regulation 2B(1) was inserted by S.I. 2012/822 and amended by S.I. 2013/521.
(**13**) Schedule 4A was inserted by S.I. 2004/646.
(**14**) In Part 2 of Schedule 4A, paragraph 3(3) was substituted by S.I. 2010/2481.
(**15**) Part 3 of Schedule 4A was substituted by S.I. 2014/1667.
(**16**) Part 5 of Schedule 4A was substituted by S.I. 2014/1667.
(**17**) Paragraph 1(b) of article 18 was substituted by S.I. 2000/1091 and amended by S.I. 2003/3179 and 2006/54.
(**18**) Paragraph 8 of article 18 was amended by S.I. 2000/1091 and 2006/217.
(**19**) Paragraph 1(g)(ii) of article 19 was amended by S.I. 2006/217.

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

Freud
Minister of State,
12th October 2015 Department for Work and Pensions

We consent

Charlie Elphicke
Mel Stride
Two of the Lords Commissioners of Her
12th October 2015 Majesty's Treasury