Draft order laid before Parliament under section 77(2) of the Deregulation and Contracting Out Act 1994 for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2002 No.

CONTRACTING OUT
SOCIAL SECURITY

The Contracting Out (Functions of Local Authorities: Income-Related Benefits) Order 2002

Made - - - -

Coming into force - -

Whereas the Secretary of State for Work and Pensions has consulted in the case of local authorities in England and Wales such representatives of local government and, in the case of local authorities in Scotland such associations of local authorities as he considers appropriate, pursuant to section 70(3) of the Deregulation and Contracting Out Act 1994(**1**);

And whereas a draft of this Order has been laid before, and approved by a resolution of, each House of Parliament pursuant to section 77(2) of that Act;

Now therefore, the Secretary of State for Work and Pensions, in exercise of the powers conferred by sections 69, 70(2) and (4) and 77(1) of that Act and of all other powers enabling him in that behalf, hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Contracting Out (Functions of Local Authorities: Income-Related Benefits) Order 2002 and shall come into force on the seventh day after the day on which it is made.

Interpretation

2. In this Order—

"the Administration Act" means the Social Security Administration Act 1992(**2**);

"the Benefits Act" means the Social Security Contributions and Benefits Act 1992(**3**);

(**1**) 1994 c. 40.
(**2**) 1992 c. 5.
(**3**) 1992 c. 4.

"council tax benefit" means the benefit to which section 123(1)(e) of the Benefits Act refers(**4**);

"decisions on claims" means any decisions in relation to those benefits or payments referred to in article 3(1) that fall to be made under or by virtue of—

(a) the Administration Act;

(b) the Benefits Act;

(c) section 34 of the Social Security Act 1998(**5**); and

(d) the Child Support, Pensions and Social Security Act 2000(**6**)

and any Regulations and Orders made under those provisions for the time being in force and, for the purposes of this Order, references to decisions include references to any determinations embodied in, or necessary to, a decision;

"discretionary housing payment" means any payment made by virtue of regulations under section 69 of the Child Support, Pensions and Social Security Act 2000;

"housing benefit" means the benefit to which section 123(1)(d) of the Benefits Act refers;

"local authority" means a billing authority, housing authority or local authority as they are defined in section 191 of the Administration Act(**7**);

"subsidy" means rent rebate subsidy, rent allowance subsidy or council tax benefit subsidy as referred to in section 140A(2)(**8**) of the Administration Act or any grant made under section 70 of the Child Support, Pensions and Social Security Act 2000 (grants towards costs of discretionary housing payments).

Functions which may be contracted out

3.—(1) In so far as it is not already lawful for functions of a local authority in relation to council tax benefit, discretionary housing payments and housing benefit under the provisions of—

(a) the Benefits Act,

(b) the Administration Act,

(c) section 34 of the Social Security Act 1998, and

(d) the Child Support, Pensions and Social Security Act 2000,

and any Regulations and Orders made under those provisions for the time being in force, to be exercised by, or by employees of, such a person (if any) authorised to do so by that authority, any such function of an authority under those provisions (not being a function excluded from section 70 of the Deregulation and Contracting Out Act 1994 by section 71(1) of that Act), other than a function specified in paragraph (2), may, if and in so far as that authority may authorise, be so exercised.

(2) The functions referred to in paragraph (1) are—

(a) any function relating to the claiming and receipt of subsidy;

(b) the issue of a certificate under section 116(3)(b) of the Administration Act (as to the date on which evidence sufficient to justify prosecution came to the local authority's knowledge);

(**4**) Section 123(1)(e) with respect to council tax benefit was substituted by the Local Government Finance Act 1992 (c. 14).
(**5**) 1998 c. 14. Section 34(4) and 34(5) were repealed for all purposes, except those specified in article 2(3) of S.I.2001/1252, by section 85 of the Child Support, Pensions and Social Security Act 2000 (c. 19).
(**6**) 2000 c. 19.
(**7**) The definition of "billing authority" was inserted by paragraph 25 of Schedule 9 to the Local Government Finance Act 1992 and the definition of "local authority" was amended by paragraph 94 of Schedule 16 to the Local Government (Wales) Act 1994 (c. 19) and by paragraph 175(5)(b) of Schedule 13 to the Local Government etc. (Scotland) Act 1994 (c. 39).
(**8**) Section 140A was inserted by paragraph 4 of Schedule 12 to the Housing Act 1996 (c. 52).