EXPLANATORY MEMORANDUM TO

THE INCOME-RELATED BENEFITS (SUBSIDY TO AUTHORITIES) AMENDMENT ORDER 2011

2011 No. 2957

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

2. Purpose of the instrument

2.1 This instrument makes changes to the Income-related Benefits (Subsidy to Authorities) Order 1998.

2.2 It is being made in order to set the level of subsidy payable to local authorities in respect of housing benefit and council tax benefit which they have paid in the financial years 2010-11 and 2011-12 and to make certain other minor technical changes to the way in which subsidy is calculated.

3. Matters of special interest to the Joint Committee on Statutory Instruments

None

4. Legislative Context

4.1 This order amends the Income-related Benefits (Subsidy to Authorities) Order 1998 which provides for subsidy to be payable to local authorities administering housing benefit and council tax benefit. Regular amendments are made each year to meet changing circumstances and policy.

4.2 The Order takes effect retrospectively, and enables final payments of subsidy to be paid after the Order is made. Prior to the Order being made, local authorities are paid interim amounts of subsidy.

5. Territorial Extent and Application

This instrument applies to Great Britain.

6. European Convention on Human Rights

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

7. Policy background

What is being done and why

7.1 Local authorities have a statutory duty to administer and pay claims for both housing benefit and council tax benefit. Subsidy is paid by the Department for Work and Pensions to reimburse them for both the actual benefit that they pay, and towards the administration costs involved in processing and maintaining claims. Policies have been set to encourage local authorities to be proactive in reducing fraud and error within such claims.

7.2 In advance of the financial year, officials consult representatives of the local authorities and formally notify them of the 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.

7.3 Regular amendments are made each year to meet changing circumstances and policy. Sections 140C (4) and 140F (2) of the Social Security Administration Act 1992 allow amendments to be made during or after the year to which it relates.

Amendments having effect from April 2010

7.4 This Order makes arrangements for administration subsidy for the year 2010/2011. A new Schedule 1 is substituted in the 1998 Order making provision for this in each local authority.

7.5 It also removes transitional provisions that are no longer required and cross-references to previously revoked provisions.

Amendments having effect from April 2011

7.6 This Order also makes amendments for the year 2011/2012 relating to the parameters by which limiting subsidy in rent rebate cases are calculated.

7.7 It also makes amendments relating to the subsidy arrangements for accommodation arranged by local authorities under the homelessness provisions of the Housing Act 1996 and the Housing (Scotland) Act 1987. This ensures that certain kinds of accommodation where the landlord, or someone on his behalf, provides care, support or supervision are not included in the temporary accommodation arrangements.

7.8 This Order also changes the way overpayments of payments on account are dealt with so that subsidy is paid at 100% in respect any overpayment not recovered by the local authority from the claimant. It also substitutes a simplified definition of “technical overpayment”. This new definition includes the provision that related to changes in Council Tax Benefit (CTB) liability, which is now omitted.

Consolidation

7.9 Informal consolidation of the instrument will be included in due course in the Department's "the Law Relating to Social Security" (the Blue Volumes) which are available at no cost to the public on the internet at: http://www.dwp.gov.uk/advisers/docs/lawvols/bluevol/

8. Consultation outcome

This order covers the 2010/11 subsidy arrangements and takes effect retrospectively. It impacts only on local authorities, and, therefore, a full public consultation was not carried out. Formal consultation with the Local Authority Associations was carried out during the making of the Order, and no adverse comments were received.

9. Guidance

9.1 Guidance relating to HB/CTB administration subsidy arrangements and additional administration subsidy for 2010/11 was issued by the agreed procedure in the HB/CTB subsidy arrangement circular S6/2009 in December 2009. Guidance relating to changes to HB/CTB overpayment classifications: technical overpayment/excess benefit arising from budget substitution, delayed award of transitional relief and reduced Council Tax (CT) liability and indicative rent level overpayment was issued in Circular A24/2010 in December 2010. Guidance relating to changes on temporary accommodation was issued in Circular S1/2011 in January 2011.

9.2 This guidance is directed at Housing Benefit and Council Tax Benefit managers and staff, fraud managers and staff and officers preparing subsidy claims and estimates. This guidance can be access on the internet at: http://www.dwp.gov.uk/local-authority-staff/housing-benefit/user-communications/hbctb-circulars/

10. Impact

10.1 The impact on business, charities or voluntary bodies is nil.

10.2 There is no new impact on the public sector

10.3 A full impact assessment has not been produced for this order.

11. Regulating small business

The legislation does not apply to small business.

12. Monitoring & review

The changes are mainly financial. DWP meets local authority representatives at monthly intervals throughout the year to discuss new and ongoing policy

and financial matters. Any issues of major concern are brought to the attention of ministers.

13. Contact

Aeon Channer at the Department for Work and Pensions (Tel: 020 7449 5378) or e-mail: Aeon.Channer@dwp.gsi.gov.uk) can answer any queries regarding the instrument.