EXPLANATORY MEMORANDUM TO

THE INCOME-RELATED BENEFITS (SUBSIDY TO AUTHORITIES) AMENDMENT ORDER 2015

2015 No. 1784

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

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

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

2.2 It is being made in order to:

- set the level of subsidy payable to local authorities in respect of housing benefit which they have paid in the 2014/15 financial year;
- provide funding for participating authorities to carry out activities with a view to reducing fraud and error in relation to the payment of housing benefit;
- provide local authorities with a period in which to process real time information in respect of an overpayment of housing benefit which has been referred to them before that overpayment it is treated as an "authority error overpayment" or "administrative delay overpayment";
- put in place the details for the Rent Rebate Subsidy Limitation scheme for the 2015/16 financial year;
- remove references to community charge benefit from the 1998 Order.

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

3.1 None

4. Legislative Context

4.1 This Order amends the 1998 Order which provides for subsidy to be payable to local authorities administering housing 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

5.1 This instrument applies to Great Britain

6. European Convention on Human Rights

6.1 As the instrument is subject to the 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 housing 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 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. Sections 140C (4) and 140F (2) of the Social Security Administration Act 1992 allow amendments to be made to the amendment Order 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 2014

7.3 Article 2(4) makes arrangements for administration subsidy for the year 2014/15. A new Schedule 1 is substituted into the 1998 Order making provision for this in each local authority.

- Amendments having effect for the purpose of determining the subsidy payable for the year beginning with 1st April 2014 and any subsequent year

7.4 Articles 2(2), (3) and (5) introduce a new scheme whereby participating local authorities are given funding to carry out activities with a view to reducing fraud and error in relation to the payment of housing benefit. The Secretary of State then sets a threshold for expected performance in reducing fraud and error in a specified period for each such authority based on the authority's performance in making such reductions in a previous equivalent period. Additional payments are then made to the authority, the amounts depending on the extent to which the authority exceeds the threshold for reducing housing benefit payments in each such period by virtue of those activities. Provision is also made for a further additional payment to be made to the authority based on performance in reducing housing benefit payments over the entire course of the scheme.

7.5 Article 3 amends the 1998 Order to provide for a 4 week grace period in relation to Real Time Information (RTI). RTI is HMRC's system for collecting Pay as You Earn (PAYE) information from employers and pension providers. The Department for Work and Pensions is working with HMRC to use RTI to help identify fraud and error in the benefit system.

In September 2014, local authorities were informed in HB Circular A15/2014 of an exercise matching HMRC RTI against data held on six social security benefits; Income Support, Jobseekers Allowance, Housing Benefit, Employment and Support Allowance, Pension Credit and Carers Allowance to identify cases where claimants have either failed to declare or have under-declared earnings and Non-State Pension (NSP).
This exercise results in referrals being issued to local authorities where the Department for Work and Pensions has information that earnings or NSP have not been correctly declared for the purposes of Housing Benefit.
Officials consulted representatives of the local authorities and, in response to local authority concerns, negotiated a grace period of four weeks from the point the RTI information is received by local authorities before the error is treated as 'Local Authority Error and/or Administrative Delay'. This will minimise the impact on the calculation of the 'Local Authority Error and/or Administrative Delay' subsidy and will provide local authorities with a window in which to manage their caseload and deal with competing priorities.

- Amendments having effect for the purpose of determining the subsidy payable for the year beginning with 1st April 2015

7.6 Article 4 amends the rebate proportion figure for the 2015/2016 financial year which is used to calculate deductions from subsidy for rebate for dwellings within the Housing Revenue Account.

7.7 Two tables are inserted for the 2015/16 financial year to set the parameters by which limiting subsidy in rent rebate cases in England and Wales are calculated.

- Other

7.8 Article 5 removes references to Community Charge Benefit from the 1998 Order as it was replaced by Council Tax Benefit in 1993, which will have effect from the coming into force of this Order.

- 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/publications/specialist-guides/law-volumes/the-law-relating-to-social-security/

8. Consultation outcome

8.1 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 housing benefit subsidy arrangements and additional administration subsidy for 2014/15 was issued by the agreed procedure in the subsidy arrangement circulars S8/2013, S9/2013, S10/2013 in November 2013.
https://www.gov.uk/government/publications/hb-subsidy-circular-s82013-housing-benefit-subsidy-arrangements-2014-to-2015-for-welsh-authorities

https://www.gov.uk/government/publications/hb-subsidy-circular-s92013-revised-administration-subsidy-arrangements-for-english-local-authorities

https://www.gov.uk/government/publications/hb-subsidy-circular-s102013-administration-costs-for-scottish-authorities-201415

9.2 Guidance directed at all Housing Benefit staff in local authorities relating to the Fraud and Error Reduction Incentive Scheme was issued in circular A17/2014 in November 2014.
https://www.gov.uk/government/publications/hb-circular-a172014-fraud-and-error-reduction-incentive-scheme-guide-for-local-authorities

9.3 Guidance directed at local authority Housing Benefit Managers relating to the Real Time Information Bulk Data Matching Initiative was issued in circular A15/2014 in September 2014.
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/357989/a15-_2014.pdf

9.4 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 accessed on the internet at:
https://www.gov.uk/government/organisations/department-for-work-pensions/series/housing-benefit-for-local-authorities-circulars

10. Impact

10.1 There is no impact on business or civil society, therefore there is no need for reference to the Reducing Regulation Committee and no need to account for the regulations under the One-in, Two-out policy.

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 small business.

12. Monitoring & review

12.1 These changes are mainly financial. DWP meets local authority representative 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

13.1 Dee Khan at the Department for Work and Pensions (Tel: 0207 829 3303 or email: HBSUBSIDY.QUERIES@DWP.GSI.GOV.UK) can answer any queries regarding the instrument.