EXPLANATORY MEMORANDUM TO

THE INCOME-RELATED BENEFITS (SUBSIDY TO AUTHORITIES) AMENDMENT ORDER 2018

2018 No. 985

1. Introduction

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

2. Purpose of the instrument

2.1 This instrument amends the Income-related Benefits (Subsidy to Authorities) Order 1998 (S.I. 1998/562) ("the 1998 Order"). The 1998 Order makes provision for claims for, and the calculation and payment of Housing Benefit subsidy.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 As this instrument is subject to negative resolution procedure, there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales and Scotland.

4.2 The territorial application of this instrument is England, Scotland and Wales.

5. European Convention on Human Rights

5.1 As the instrument is subject to negative resolution procedure, no statement is required.

6. Legislative Context

6.1 This Order amends the 1998 Order which provides for subsidy to be payable to Local Authorities (LAs) administering Housing Benefit. Amendments are generally made each year to the 1998 Order to meet changing circumstances and policy.

6.2 Article 3(2) and Schedule 1 to this Order prescribe the amounts of subsidy for the 2017/18 financial year. These amounts are retrospective and have already been paid to LAs in instalments throughout 2017/18. The making of this Order enables LA's final claims for subsidy to be finalised and settled.

7. Policy background

What is being done and why?

7.1 LAs have a statutory duty to administer and pay claims for Housing Benefit. Subsidy is paid by DWP to reimburse them for both the actual Housing Benefit that they pay and as a contribution towards the administration costs involved in processing and maintaining Housing Benefit claims. Additional incentive payments encourage LAs to be active in reducing fraud and error in such claims.

7.2 In advance of the relevant financial year, DWP officials consult representatives of the LAs and subsequently notify them of arrangements for the forthcoming year. During the year subsidy is paid in instalments. Final claims are settled after the year has ended, following laying of this Amendment Order, which sets out the financial arrangements. Amendments to the 1998 Order can be made before, during or after the year to which they relate[1].

Amendments having effect for the purpose of determining the subsidy payable for the year beginning 1 April 2017

7.3 Article 3(2) and Schedule 1 set out the amounts of subsidy due to each LA for the year beginning 1 April 2017, towards their costs for administering Housing Benefit. A new Schedule 1 is inserted into the 1998 Order each year making provision for this. The amounts of subsidy are different for each LA and are calculated based on methodologies agreed with Local Authority Associations (LAAs).

Amendments having effect for the purpose of determining the subsidy payable for the year beginning 1 April 2018

7.4 The other amendments in Article 3 introduce the new Verify Earnings and Pension (VEP) scheme which started on 1 April 2018. Most LAs are participating in this scheme. The VEP scheme allows LAs to use earnings and pensions information supplied by HM Revenue & Customs to verify earnings and pension details. The VEP scheme also has an alert service to notify changes in earnings or pensions, which LAs have access to in order to prevent fraud and error.

7.5 Specifically Article 3(1)(a) and 3(3) and Schedule 2 introduce the VEP scheme, which is set out in Schedule 1ZB. This allows LAs participating in the VEP scheme to receive payment of additional subsidy.

7.6 Article 3(1)(b) and 3(4) revoke the provisions relating to the previous fraud and error incentive scheme which applied in the 2017/18 financial year.

7.7 The amendments in Article 4 are made with a view to encouraging LAs to limit rent increases. LAs are encouraged to control expenditure and the level of rent increase through Rent Rebate Subsidy Limitation. When an LA increases its average weekly rent above the limit set out in this instrument, they will only receive subsidy on rebates up to the limit and may have to fund the cost of additional rebates above the rent limit itself.

7.8 Specifically Article 4(2) amends the rent proportion figure in England from 0.739 to 0.756. This figure is used in part of the calculation, to limit subsidy payable on high rents.

[1]Section 140F of the Social Security Administration Act 1992 allows for this.

7.9 Article 4(3) and 4(4) replace two tables detailing the 2018/19 weekly rent limits respectively for England and Wales.

Other amendments

7.10 Article 5 amends the 1998 Order to introduce new arrangements for verifying final claims for subsidy made by LAs in England. The claims will be tested by the LA and its reporting accountant in accordance with the new Housing Benefit Assurance Process. The LA must then ensure that the report of factual findings is submitted to DWP no later than 30 November, in the year following the relevant year. Subsidy may be withheld if LAs fail to notify DWP, in time without reasonable explanation, of the identity of their reporting accountant. The amendments made by this Article also ensure that the arrangements for auditing claims for final subsidy made by LAs in Wales and Scotland remain as they are now.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union so as to trigger the statement requirements under the European Union (Withdrawal) Act 2018.

9. Consolidation

9.1 Informal consultation text of instruments is available to the public free of charge via The National Archive website: http://www.legislation.gov.uk/.

10. Consultation outcome

10.1 Formal targeted consultation regarding this Order has been carried out with LAAs during August 2018. Two formal responses were received, one from Glasgow LA and one from Convention of Scottish Local Authorities; both requested further explanation of the figures in Schedule 1. No adverse comments were received.

11. Guidance

11.1 Guidance relating to Housing Benefit subsidy arrangements and additional administration subsidy for 2017/18 was issued in circular S10/2016[2].

11.2 Guidance relating to Rent Rebate Subsidy Limitation for 2018/19 was issued in circular S8/2018[3].

11.3 Guidance relating to the VEP scheme was issued in circulars S10/2018[4] and A5/2018[5].

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[2] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/579835/s10-2016.pdf

[3] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/696429/s8-2018.pdf

[4] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/704400/s10-2018.pdf

[5] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/699619/a5-2018.pdf

11.4 The guidance relating to the new Housing Benefit assurance process for LAs in England was issued in circular S7/2018[6].

11.5 This guidance is directed at housing benefit managers and staff, fraud managers and staff and officers preparing subsidy claims and estimates. This guidance can be accessed on GOV.UK https://www.gov.uk/government/publications and is in the form of circulars setting out the amounts to be paid to each local authority.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, new significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because the SI relates to an annual process of allocating reconciling subsidies to LAs.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is DWP meets local authorities' representatives at regular intervals throughout the year to discuss new, and review on going, policy and financial matters relating to housing benefit. Any issues of major concern are brought to the attention of DWP Ministers.

14.2 DWP is also committed to monitoring the impacts of its policies and to establishing the extent to which those policies have met their objectives.

15. Contact

15.1 Amanda Frankland at the Department for Work and Pensions Telephone: 01253 337669 or email: HBSUBSIDY.QUERIES@DWP.GSI.GOV.UK can answer any queries regarding the instrument.

15.2 Clare Elliott Head of Housing Delivery Division at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.

15.3 Justin Tomlinson Minister for Family Support, Housing and Child Maintenance can confirm that this Explanatory Memorandum meets the required standard.

[6] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/695745/s7-2018.pdf