EXPLANATORY MEMORANDUM TO

THE INCOME-RELATED BENEFITS (SUBSIDY TO AUTHORITIES) AMENDMENT ORDER 2019

2019 No. 1243

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.

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

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") which 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 The definition of "VEP alerts" in paragraph 1 of the substituted Schedule 1ZB to the 1998 Order reflects comments made by the Committee on the version of that definition enacted in the Order amending the 1998 Order last year.[1]

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 and does not amend primary legislation, 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) towards their costs for administering Housing Benefit. Amendments are generally made each year to the 1998 Order to meet changing circumstances and policy.

[1] https://publications.parliament.uk/pa/jt201719/jtselect/jtstatin/216/21608.htm

6.2 Article 3(1) of, and Schedule 1 to, this Order prescribe the amounts of subsidy paid to LAs towards those costs for the 2018-19 financial year. These amounts have already been paid to LAs in instalments throughout that year. The making of this Order enables LAs' final audited 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 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 audited 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[2].

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

7.3 Article 3(1) and Schedule 1 set out the amounts of subsidy due to each LA for that year 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 2019

7.4 Amendments made last year allow for additional payments of subsidy to be paid for to LAs administering Verify Earnings and Pensions (VEP) alerts relating to the earnings and pension paid to Housing Benefit claimants. The VEP scheme enables LAs to use information provided by DWP, which is received by DWP from HM Revenue and Customs, to verify the earnings and pension details of those claimants in order to help prevent fraud and error. Most LAs are participating in this scheme.

7.5 Article 3(2) and Schedule 2 substitute Schedule 1ZB to the 1998 Order which sets out the additional amounts of subsidy to be paid to LAs participating in the VEP scheme in 2019-20.

7.6 The amendments in Article 4 are made with a view to encouraging LAs to control rent rebate expenditure and the level of rent increases for 2019-20. Rent Rebate Subsidy Limitation applies to LAs in England and Wales. When a LA increases its average weekly rent above the limit set out in this instrument, they are liable to receive reduced subsidy on their HB rent rebate expenditure for the relevant financial year. The rent limits are set each year in England by the Ministry of Housing, Communities and Local Government's Secretary of State, and in Wales by the Welsh Government.

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

7.7 Specifically, Article 4(2) amends the rent proportion figure in England from 0.756 to 0.726. This figure is used in part of the calculation to limit subsidy payable on high rents.

7.8 Article 4(3) and 4(4) replace the two tables detailing the 2019-20 weekly rent limits respectively for England and Wales.

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 June 2019. One formal response was received, from Leeds City Council requesting 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 administration subsidy for the 2018-19 year was issued in circular S3/2018[3].

11.2 Guidance relating to Rent Rebate Subsidy Limitation for the 2019-20 year was issued in circular S3/2019[4].

11.3 Guidance relating to the VEP scheme for the 2019-20 year was issued in circular S10/2019[5].

11.4 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 LA.

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.

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[3] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/680094/s3-2018.pdf

[4] https://www.gov.uk/government/publications/housing-benefit-subsidy-circulars-2019/s32019-rent-rebate-subsidy-limitation-information-2019-20

[5] https://www.gov.uk/government/publications/housing-benefit-subsidy-circulars-2019/s102019-payment-for-the-verify-earnings-and-pension-alerts-service-2019-to-2020

12.3 An Impact Assessment has not been prepared for this instrument because the instrument relates to an annual process of allocating and 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 with LA and LAA representatives at regular intervals throughout the year to discuss new, and review ongoing, 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 Caroline Todd at the Department for Work and Pensions Telephone: 01253 337076 or email: HBSUBSIDY.QUERIES@DWP.GOV.UK can be contacted with 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 Will Quince Parliamentary Under-Secretary for State for Family Support, Housing and Child Maintenance can confirm that this Explanatory Memorandum meets the required standard.