EXPLANATORY MEMORANDUM TO

THE INCOME-RELATED BENEFITS (SUBSIDY TO AUTHORITIES) AMENDMENT ORDER 2024

2024 No. 1092

1. Introduction

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

2. Declaration

2.1 The Right Honourable Sir Stephen Timms MP, Minister for Social Security and Disability at the DWP confirms that this Explanatory Memorandum meets the required standard.

2.2 Clare Elliott, Deputy Director, Local Authority Partnership, Engagement and Delivery division at the DWP confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Tracie Fairbrother at the DWP Telephone: 0300 082 6872 / 0788 046 1698 or email: tracie.fairbrother@dwp.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument amends the Income-related Benefits (Subsidy to Authorities) Order 1998[1] ("the 1998 Order") which makes provision for the claims for, and the calculation and payment of Housing Benefit Subsidy (see paragraph 5.1 of this memorandum).

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is Great Britain.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is Great Britain.

5. Policy Context

What is being done and why?

5.1 Each year, Local Authorities have a legal duty to administer and pay claims for Housing Benefit. A Subsidy is paid by the 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.

[1] https://www.legislation.gov.uk/uksi/1998/562/contents

What was the previous policy, how is this different?

5.2 In advance of the relevant financial year, currently for years ending 2024 and 2025, the Department for Work and Pensions (DWP) officials consult representatives of the Local Authorities (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 the coming into force date of the Income-Related Benefits (Subsidy to Authorities) Amendment Order ("the 2024 Amendment Order"), which sets out the financial arrangements. Amendments to the Income-related Benefits (Subsidy to Authorities) Order 1998 ("1998 Order") can be made before, during or after the year to which they relate[2].

5.3 Article 6 and the Schedule to the 2024 Amendment Order set out the amounts of subsidy due to each Local Authority (LA) for that year towards their costs for administering Housing Benefit. Schedule 1 of the 1998 Order is substituted each year to make provision for this. The amounts of subsidy are different for each LA and are calculated based on methodologies agreed with Local Authority Associations (LAAs).

5.4 Article 7 updates Schedule 1ZB to the 1998 Order, specifying additional funding provided to LAs for year beginning 1st April 2024, to administer the Verify Earnings and Pension scheme[3], which serves as an incentive to LAs to work towards reducing fraud and error in Housing Benefit claims.

5.5 Article 8 updates Schedule 1ZC to the 1998 Order to prescribe additional amount of subsidy payable to LAs who participate in the Housing Benefit Award Accuracy Initiative from 1st April 2023, which requires LAs to carry out specific actions on cases to improve award accuracy.

5.6 Article 9 amends Schedule 4A to the 1998 Order to update the rent rebate proportion figure from 0.44 to 0.397 and provides specified amounts for each LA in Wales with social housing stock. These figures are used in part of the calculation to limit subsidy payable on high rents. This regime encourages LAs in Wales to control rent rebate expenditure and the level of rent increases. When an LA in Wales increases its average weekly rent above the relevant limit set out in this instrument, they are liable to receive reduced subsidy on their Housing Benefit rent rebate expenditure for the relevant financial year. The rent limits are set each year in Wales by the Welsh Government.

What was the previous policy, how is this different?

5.7 Currently the 1998 Order prescribes the amounts of subsidy paid to LAs towards the cost of administering Housing Benefit for the year beginning 1st April 2022. The current 1998 Order now needs to reflect those amounts paid to LAs for the year beginning 1st April 2023.

5.8 The 1998 Order prescribes additional funding provided to LAs for the year beginning 1st April 2022, to participate in the Housing Benefit Award Accuracy Initiative, which requires LAs to carry out specific actions on cases to improve award accuracy. The current 1998 Order now needs to record the funding for the year beginning 1st April 2023.

[2] Sections 140C and 140F of the https://www.legislation.gov.uk/ukpga/1992/5 allow for this.
[3] S6/2024 https://www.gov.uk/government/publications/housing-benefit-subsidy-circulars-2024/s62024-funding-for-the-verify-earnings-and-pensions-service-for-the-financial-year-ending-march-2025

5.9 The Income-related Benefits (Subsidy to Authorities) Order 1998 ("the 1998 Order") sets figures for the maximum average rent limits for the various Local Authorities (LAs) in Wales and specifies a rent rebate proportion figure for LAs in Wales, which is used to calculate the maximum subsidy payable for year beginning 1st April 2023. The current 1998 Order now needs to show the updated figures for the year beginning 1st April 2024.

5.10 The 1998 Order specifies additional funding provided to Local Authorities (LAs) for year beginning 1st April 2023, to administer the Verify Earnings and Pension scheme, which serves as an incentive to LAs to work towards reducing fraud and error in Housing Benefit claims. Changes to the current 1998 Order need to report the figures administered by the scheme for the year beginning 1st April 2024.

6. Legislative and Legal Context

How has the law changed?

6.1 The Income-Related Benefits (Subsidy to Authorities) Amendment Order ("the 2024 Amendment Order") amends and updates the 1998 Order by revising the annual amounts that the Department for Work and Pensions (DWP) pays to LAs in Great Britain for administering Housing Benefit in their respective areas (see paragraph 5.3 of this memorandum). This 2024 Amendment Order also provides for any policy changes which affect Housing Benefit Subsidy.

6.2 Article 3 ensures that the 1998 Order refers to the up-to-date version of the Housing Benefit Assurance Process, which is a DWP framework used to assure Housing Benefit Subsidy is paid by LAs in accordance with relevant legislation.

6.3 Article 4 clarifies the definition of Self-Contained Accommodation in article 17(4) of the 1998 Order[4]. The old wording: 'is not required to share one or more' is to be amended to 'exclusive use' of a kitchen, a bathroom and a toilet.

6.4 Article 5 amends article 18(7A) to remove outdated wording that should have been omitted in the 2021 Subsidy Amendment Order[5]. Due to this correction the 2024 Order will be issued free of charge to all known recipients of the 2021 Amendment Order.[6]

6.5 The 2024 Amendment Order updates the figures for the Verify Earnings and Pension scheme (see paragraph 5.4 of this memorandum and article 7 of the 2024 Amendment Order) and revises the additional funding for Housing Benefit Award Accuracy Initiative (see paragraph 5.5 of this memorandum and article 8 of the 2024 Amendment Order).

6.6 Figures for the average rent limits for Wales have also been updated (see paragraph 5.6 of this memorandum and article 9 of the 2024 Amendment Order for their relevant years).

Why was this approach taken to change the law?

6.7 This is a routine annual Amendment Order used to update subsidy amounts and make any relevant policy changes.

[4] https://www.legislation.gov.uk/uksi/1998/562/article/17
[5] https://www.legislation.gov.uk/uksi/2021/1031/schedule/5/paragraph/11/made
[6] https://www.legislation.gov.uk/uksi/2021/1031/contents/made

7. Consultation

Summary of consultation outcome and methodology

7.1 Formal targeted consultation regarding this Order has been carried out with Local Authority Association representatives during August 2024. All responses received were in agreement with the Order, no adverse comments have been received.

8. Applicable Guidance

8.1 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 and is in the form of circulars setting out the amounts to be paid to each Local Authority.

8.2 Guidance relating to Housing Benefit Administration Subsidy Ending (FYE) 2024 was issued in circular S2/2023.[7]

8.3 Guidance relating to the Housing Benefit Award Accuracy Initiative for the FYE 2024 was issued in circular A4/2023.[8]

8.4 Guidance relating to Rent Rebate Subsidy Limitation for the FYE 2025 year was issued in circular S1/2024.[9]

8.5 Guidance relating to the Verify Earnings and Pensions scheme for the FYE 2025 year was issued in circular S6/2024.[10]

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because this instrument relates to an annual process of allocating and reconciling subsidies to local authorities (LAs), with a low-level impact.

Impact on businesses, charities and voluntary bodies

9.2 There is no impact on business, charities or voluntary bodies because current legislation relates to the reconciling and allocating of subsides to LAs to ensure the Income-related Benefits (Subsidy to Authorities) Order 1998 is updated annually with the correct information.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no impact on the public sector because current legislation does not impact how, or to whom the payments of Housing Benefit is made.

[7] https://www.gov.uk/government/publications/housing-benefit-subsidy-circulars-2023/s22023-housing-benefit-administration-subsidy-arrangements-for-english-scottish-and-welsh-local-authorities-for-the-financial-year-ending-march-2024
[8] https://www.gov.uk/government/publications/housing-benefit-adjudication-circulars-2023/a42023-housing-benefit-award-accuracy-initiative-for-the-financial-year-ending-march-2024
[9] https://www.gov.uk/government/publications/housing-benefit-subsidy-circulars-2024/s12024-rent-rebate-subsidy-limitation-information-for-financial-year-ending-march-2025-wales-only
[10] S6/2024 https://www.gov.uk/government/publications/housing-benefit-subsidy-circulars-2024/s62024-funding-for-the-verify-earnings-and-pensions-service-for-the-financial-year-ending-march-2025

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is that the Department for Work and Pensions (DWP) meets with representatives from local authorities and Local Authority Associations 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.

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

10.3 The Instrument does not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

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

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").