

2011 No. 2957

SOCIAL SECURITY

The Income-related Benefits (Subsidy to Authorities) Amendment Order 2011

<i>Made</i> - - - -	<i>8th December 2011</i>
<i>Laid before Parliament</i>	<i>13th December 2011</i>
<i>Coming into force</i> -	<i>1st February 2012</i>

The Secretary of State for Work and Pensions makes the following Order in exercise of the powers conferred by sections 140B(1), (3) and (4), 140C(1) and (4), 140F(2) and 189(1), (4), (5) and (7) of the Social Security Administration Act 1992(a).

In accordance with section 189(8)(b) of that Act the Secretary of State has obtained the consent of the Treasury.

In accordance with section 176(1)(c) of that Act, consultation has taken place with organisations appearing to the Secretary of State to be representative of the authorities concerned.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Income-related Benefits (Subsidy to Authorities) Amendment Order 2011 and comes into force on 1st February 2012.

(2) Articles 2 and 3 have effect from 1st April 2010.

(3) Articles 4 to 6 have effect from 1st April 2011.

(4) In this Order “the 1998 Order” means the Income-related Benefits (Subsidy to Authorities) Order 1998(d).

[Article 2 amends article 4, 9, and omits article 9A & 22 of S.I. 1998/562.]

[Article 3 substitutes Schedule 1 to S.I. 1998/562.]

[Article 4 amends article 11, 16, 17 & 18 of S.I. 1998/562.]

(a) S.I. 1998/562.

(b) 1992 c. 5. Sections 140B, 140C and 140F were inserted by the Housing Act 1996 (c. 52), Schedule 12, paragraph 4. Section 140B was amended by the Social Security Administration (Fraud) Act 1997 (c. 47) (“the Fraud Act”), section 10 and Schedule 1, paragraph 7, the Local Government Act 2003 (c. 26), Schedule 7, paragraph 36 and the Welfare Reform Act 2007 (c. 5), Schedule 5, paragraph 9. Section 189(1) and (4) were amended by the Social Security Act 1998 (c. 14), Schedule 7, paragraph 109. Section 189(1) was amended by the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2) (“the Transfer of Functions Act”), Schedule 3, paragraph 57(2) and the Tax Credits Act 2002 (c. 21), Schedule 6. Section 189(7) was amended by the Local Government Finance Act 1992 (c. 14), Schedule 9, paragraph 24 and the Fraud Act, Schedule 1, paragraph 10.

(c) Section 189(8) was amended by the Housing Act 1996, Schedule 13, paragraph 3(5), the Pensions Act 2007 (c. 22), Schedule 1, paragraph 29, the Transfer of Functions Act, Schedule 3, paragraph 57(1) and (3) and the Tax Credits Act 2002, Schedule 4, paragraph 3.

(d) Section 176(1) was amended by the Local Government Finance Act 1992, Schedule 9, paragraph 23, the Child Support, Pensions and Social Security Act 2000 (c. 19), section 69(6) and the Housing Act 1996, Schedule 13, paragraph 3(4).

[Article 5 amends part 2 of Schedule 4 to S.I. 1998/562.]

[Article 6 amends Schedule 4A of S.I. 1998/562.]

Signed by authority of the Secretary of State for Work and Pensions.

8th December 2011

Freud
Parliamentary Under-Secretary of State,
Department for Work and Pensions

We consent

7th December 2011

Two of the Lords Commissioners of Her Majesty's Treasury

Angela Watkinson
Jeremy Wright

[Schedule 1 substitutes Schedule 1 to S.I. 1998/562.]

[Schedule 2 substitutes part 3 of Schedule 4A to S.I. 1998/562.]

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Income-related Benefits (Subsidy to Authorities) Order 1998 (“the 1998 Order”), which provides for the calculation and payment of housing benefit and council tax benefit subsidy to local authorities in England, Wales and Scotland which administer those benefits. Sections 140C(4) and 140F(2) of the Social Security Administration Act 1992 authorise the making or varying of an order before, during or after the year to which it relates.

Article 2, which has effect from 1st April 2010, revokes article 4(4) and (4A) of the 1998 Order. These required returns in respect of arrangements relating to fraud and error which have been revoked. Article 2 also revokes articles 9A and 22 of the 1998 Order which are transitional provisions that are no longer needed. It amends article 9(2) to remove references to article 9A.

Article 3, which also has effect from 1st April 2010, substitutes a new table in Schedule 1 to the 1998 Order. This substitutes new figures to be used in the calculation of subsidy for the year beginning on 1st April 2010.

Article 4, which has effect from 1st April 2011, amends Part 3 of the 1998 Order. It amends articles 17A and 17C, which make provision for the calculation of subsidy for certain kinds of temporary accommodation, to clarify which local housing allowance rate is to be used in the calculation for accommodation with five bedrooms. It also amends articles 17B and 17C so that arrangements for calculating subsidy in relation to temporary accommodation do not cover exempt accommodation, where a non-profit landlord, or someone acting on its behalf, provides care, support or supervision to the tenant. Article 4 also inserts in article 11 (interpretation of Part 3) a new definition which is needed for these amendments.

Article 4 also amends article 18, which provides for additions to subsidy in respect of certain overpayments. It substitutes a simpler definition of “technical overpayment” which applies to overpayments of rent rebate and council tax benefit where the rebate or benefit is reduced or eliminated as a result of a reduction or elimination of a liability to pay rent or council tax, or where entitlement to council tax benefit is reduced or eliminated because of some other change of circumstances. It does not apply to any overpayment occurring before the liability was reduced or eliminated, or before the authority suspended, revised or superseded the award of council tax benefit. It also removes the separate provision in article 18(2)(c) relating to overpayments arising as a result of a reduction in the amount of council tax a person is liable to pay, as this is within the new definition of a technical overpayment.

Article 4 also adds a new category of overpayment to cover payments on account paid in excess of final benefit entitlement. Subsidy of 100 per cent. will be payable on any amount that the authority has not recovered. Article 4(3) and Article 5 (which also takes effect from 1st April 2011) revoke existing provisions about subsidy in relation to payments on account, which are superseded by these amendments.

Article 6, which also has effect from 1st April 2011, amends Schedule 4A to the 1998 Order, which determines whether or not an authority is liable to a deduction from rent rebate subsidy payable for 2011-12. With respect to authorities in England, paragraph (3) simplifies the calculation so that it is based on the average weekly rent for a dwelling in the authority’s Housing Revenue Account, and paragraph (4) substitutes a new table in Part 3 of Schedule 4A (weekly rent limits). With respect to authorities in Wales, paragraph (5) substitutes a new table in Part 5 of Schedule 4A which sets out the specified amount “0” and the guideline rent increase used when calculating deductions from subsidy under paragraph 4 of that Schedule.

A full impact assessment has not been produced for this instrument as it has no impact on the private sector or civil society organisations.

