

2010 No. 2509

SOCIAL SECURITY

**The Income-related Benefits (Subsidy to Authorities)
(Temporary Accommodation) Amendment Order 2010**

<i>Made</i> - - - -	<i>13th October 2010</i>
<i>Laid before Parliament</i>	<i>18th October 2010</i>
<i>Coming into force</i> - -	<i>1st April 2011</i>

The Secretary of State for Work and Pensions makes the following Order in exercise of the powers conferred by sections 140B, 140F(2) and 189(1), (4) 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 sought 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 and commencement

1. This Order may be cited as the Income-related Benefits (Subsidy to Authorities) (Temporary Accommodation) Amendment Order 2010 and comes into force on 1st April 2011.

Amendment of the Income-related Benefits (Subsidy to Authorities) Order 1998

2.—(1) The Income-related Benefits (Subsidy to Authorities) Order 1998(d) is amended as follows.

(2) In article 13(1)(a)(e) (relevant benefit) for “and 17A” substitute “, 17A, 17B and 17C”.

-
- (a) 1992 c.5. Sections 140B 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), 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), 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 Social Security Administration (Fraud) Act 1997, Schedule 1, paragraph 10.
- (b) 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 Social Security Contributions (Transfer of Functions, etc.) Act 1999, Schedule 3, paragraph 57(1) and (3) and the Tax Credits Act 2002, Schedule 4, paragraph 3.
- (c) 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).
- (d) S.I. 1998/562.
- (e) Article 13(1) was substituted by S.I. 2000/1091 and amended by S.I. 2003/3179, 2005/369, 2006/94, 2008/196 and 2010/2481.

(3) In article 14(2)(a) (backdated benefit) after “17A(2)” insert “, 17B(2), 17C(2)”.

(4) For articles 15(7) and 15A(7)(b) (disproportionate rent increase) substitute—

“(7) This article shall not apply in a case to which article 17 or 17A (subsidy in respect of temporary or short term accommodation) applies.”.

(5) In article 16(1)(c) (treatment of high rents in rent allowance cases) after “article 14 (backdated benefits)” insert “, 17B or 17C (subsidy in respect of accommodation provided by a registered housing association as temporary or short term accommodation)”.

(6) For the heading to article 17(d) (subsidy in respect of temporary accommodation – non self-contained licensed accommodation and board and lodging accommodation) substitute “Subsidy in respect of non self-contained licensed accommodation, and board and lodging accommodation, provided by an authority as temporary or short term accommodation”.

(7) In article 17—

(a) for paragraph (1) substitute—

“(1) This article applies where—

(a) a rent rebate is payable by an authority;

(b) a person (“P”) is required to pay the authority for—

(i) board and lodging accommodation; or

(ii) accommodation which is not self-contained and which the authority has a right to use under an agreement, other than a lease, with a third party; and

(c) the authority makes the accommodation available to P—

(i) to discharge any of its functions under Part 3 of the Housing Act 1985(e), Part 7 of the Housing Act 1996(f) or Part 2 of the Housing (Scotland) Act 1987(g), as the case may be; or

(ii) to prevent P being or becoming homeless within the meaning of Part 7 of the Housing Act 1996 or (in Scotland) Part 2 of the Housing (Scotland) Act 1987.”;

(b) in paragraph (2)(c) omit “subject to paragraph (3A)”;

(c) in paragraph (3) for “preceding the relevant year” substitute “2011”;

(d) omit paragraph (3A);

(e) in paragraph (4) for “article 17A” substitute “articles 17A, 17B and 17C”; and

(f) in paragraph (5) for “article 17A” substitute “articles 17A, 17B and 17C”.

(8) For the heading to article 17A(h) (subsidy in respect of temporary accommodation – self-contained licensed accommodation and short lease accommodation) substitute “Subsidy in respect of self-contained licensed accommodation, and leased accommodation, provided by an authority as temporary or short term accommodation”.

(9) In article 17A—

(a) for paragraph (1) substitute—

“(1) This article applies where—

(a) a rent rebate is payable by an authority;

(a) Article 14(2) was amended by S.I. 2005/369 and 2009/2580.

(b) Article 15A was inserted by S.I. 2005/369. Articles 15(7) and 15A(7) were amended by S.I. 2010/2481.

(c) Article 16(1) was amended by S.I. 2001/2350 and 2006/54.

(d) Article 17 was substituted by S.I. 2009/2580 and amended by S.I. 2010/2481.

(e) 1985 c.68. Repealed by the Housing Act 1996, Schedule 19, Part 8 but remains in force for applications made before 20th January 1997.

(f) 1996 c.52.

(g) 1987 c.26.

(h) Article 17A was inserted by S.I. 2009/2580 and amended by S.I. 2010/2481.

- (b) a person (“P”) is required to pay the authority—
 - (i) for self-contained accommodation which the authority has a right to use under an agreement, other than a lease, with a third party;
 - (ii) in England, for accommodation outside that authority’s Housing Revenue Account which the authority holds on a lease granted for a term not exceeding 10 years; or
 - (iii) in Wales and Scotland, for accommodation which the authority holds on a lease; and
 - (c) the authority makes the accommodation available to P—
 - (i) to discharge any of its functions under Part 3 of the Housing Act 1985, Part 7 of the Housing Act 1996 or Part 2 of the Housing (Scotland) Act 1987, as the case may be; or
 - (ii) to prevent P being or becoming homeless within the meaning of Part 7 of the Housing Act 1996 or (in Scotland) Part 2 of the Housing (Scotland) Act 1987.”;
 - (b) in paragraph (2)(c) omit “subject to paragraph (3A)”;
 - (c) in paragraph (3)(a) for “preceding the relevant year” substitute “2011”;
 - (d) omit paragraph (3A); and
 - (e) for paragraph (4) substitute—

“(4) For the purposes of determining the applicable local housing allowance in paragraph (3)—

 - (a) for accommodation which is not self-contained, the applicable local housing allowance is the local housing allowance specified in paragraph 1(1)(b) of Schedule 3B to the Rent Officers Order; and
 - (b) for accommodation which is self-contained—
 - (i) where the total number of rooms suitable for living in and bedrooms in the accommodation is between two and five, at least one of those rooms is to be treated as a room suitable for living in; and
 - (ii) where the total number of rooms suitable for living in and bedrooms in the accommodation is six or more, at least two of those rooms are to be treated as rooms suitable for living in.”.
- (10) After article 17A insert—

“Subsidy in respect of non self-contained licensed accommodation, and board and lodging accommodation, made available by a registered housing association as temporary or short term accommodation

- 17B.—**(1) This article applies where—
- (a) a rent allowance is payable by an authority;
 - (b) a person (“P”) is required to pay a registered housing association for—
 - (i) board and lodging accommodation; or
 - (ii) accommodation which is not self-contained and which the registered housing association has a right to use under an agreement, other than a lease, with a third party; and
 - (c) the registered housing association makes the accommodation available to P in pursuance of arrangements made with it by the authority—
 - (i) to discharge any of the authority’s functions under Part 3 of the Housing Act 1985, Part 7 of the Housing Act 1996 or Part 2 of the Housing (Scotland) Act 1987, as the case may be; or

- (ii) to prevent P being or becoming homeless within the meaning of Part 7 of the Housing Act 1996 or (in Scotland) Part 2 of the Housing (Scotland) Act 1987.

(2) Where this article applies the appropriate amount is the lowest of—

- (a) the amount of housing benefit entitlement in a week or part week, as the case may be;
- (b) the maximum amount determined in accordance with paragraph (3); or
- (c) £500 where the dwelling is located in a broad rental market area listed in Schedule 8 (broad rental market areas in London) or £375 where the dwelling is located in any other broad rental market area.

(3) The maximum amount referred to in paragraph (2) is the local housing allowance for January 2011 for the category specified in paragraph 1(1)(b) of Schedule 3B to the Rent Officers Order which is applicable to the broad rental market area in which the accommodation is situated.

Subsidy in respect of self-contained accommodation, or owned or leased accommodation, made available by a registered housing association as temporary or short term accommodation

17C.—(1) This article applies where—

- (a) a rent allowance is payable by an authority; and
- (b) a person (“P”) is required to pay a registered housing association for—
 - (i) accommodation which is not self-contained and which the registered housing association owns or holds on a lease; or
 - (ii) accommodation which is self-contained; and
- (c) the registered housing association makes the accommodation available to P in pursuance of arrangements made with it by the authority—
 - (i) to discharge any of the authority’s functions under Part 3 of the Housing Act 1985, Part 7 of the Housing Act 1996 or Part 2 of the Housing (Scotland) Act 1987, as the case may be; or
 - (ii) to prevent P being or becoming homeless within the meaning of Part 7 of the Housing Act 1996 or (in Scotland) Part 2 of the Housing (Scotland) Act 1987.

(2) Where this article applies the appropriate amount is the lowest of—

- (a) the amount of housing benefit entitlement in a week or part week, as the case may be;
- (b) the maximum amount determined in accordance with paragraph (3); or
- (c) £500 where the dwelling is located in a broad rental market area listed in Schedule 8 (broad rental market areas in London) or £375 where the dwelling is located in any other broad rental market area.

(3) The maximum amount referred to in paragraph (2) is the aggregate of—

- (a) 90% of the local housing allowance for January 2011 for the category specified in paragraphs 1(1)(b) to (f) of Schedule 3B to the Rent Officers Order which applies to the accommodation and is applicable to the broad rental market area in which the accommodation is situated; and
- (b) either—
 - (i) £40 for authorities listed in Schedule 7 (authorities in London); or
 - (ii) £60 for other authorities.

(4) For the purposes of determining the applicable local housing allowance in paragraph (3)—

- (a) for accommodation which is not self-contained, the applicable local housing allowance is the local housing allowance specified in paragraph 1(1)(b) of Schedule 3B to the Rent Officers Order; and
- (b) for accommodation which is self-contained—
 - (i) where the total number of rooms suitable for living in and bedrooms in the accommodation is between two and five, at least one of those rooms is to be treated as a room suitable for living in; and
 - (ii) where the total number of rooms suitable for living in and bedrooms in the accommodation is six or more, at least two of those rooms are to be treated as rooms suitable for living in.”.

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

13th October 2010

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

We consent,

13th October 2010

Michael Fabricant
Angela Watkinson
Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Income-related Benefits (Subsidy to Authorities) Order 1998 (“the principal 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. The amendments relate to the calculation of the subsidy provided in respect of temporary or short term accommodation.

Article 2(7) and (9) amend articles 17 and 17A of the principal Order, which determine the way subsidy is calculated where such accommodation is provided by a local authority. The amendments provide that these articles will apply when the local authority provides such accommodation to discharge a statutory homelessness function or to prevent homelessness. They also remove the discretion, given to the Secretary of State with effect from 1st April 2010 by S.I. 2010/2481, to disapply the cap on the subsidy for this category of accommodation.

Article 2(10) inserts new articles 17B and 17C into the principal Order. These new articles will determine the way subsidy is calculated where such accommodation is provided by a registered housing association pursuant to arrangements made with it by a local authority to discharge a statutory homelessness function or to prevent homelessness. “Registered housing association” is defined in regulation 2(1) of the Housing Benefit Regulations 2006 (S.I. 2006/213), a definition which is applied by article 11(1) of the principal Order. These new articles apply to this type of accommodation the same subsidy calculation, based on the local housing allowance, that applies to temporary or short term accommodation provided by a local authority. Article 17B applies to non-self contained accommodation held on a licence, and to board and lodging accommodation. Article 17C applies to self-contained accommodation, and to non self-contained accommodation which the registered housing association owns or holds on a lease.

The remaining provisions in article 2 make consequential amendments to the principal Order.

A full impact assessment has not been produced for this instrument as it has no impact on the private or voluntary sectors.

STATUTORY INSTRUMENTS

2010 No. 2509

SOCIAL SECURITY

The Income-related Benefits (Subsidy to Authorities)
(Temporary Accommodation) Amendment Order 2010

£4.00