
STATUTORY INSTRUMENTS

1998 No. 562

The Income-related Benefits
(Subsidy to Authorities) Order 1998

PART II

CLAIMS FOR AND PAYMENT OF SUBSIDY

Interpretation of Parts II and IV

2. In this Part and also in Part IV, unless the context otherwise requires—

[^{F1}“base data return” means a return pursuant to article 4(4A);]

^{F2}
...

“claim” means an initial claim, mid-year claim, final claim or a return pursuant to article 4(4), as the case may be;

“claim form” means the form supplied by the Secretary of State pursuant to article 4(2)(a), (b) or (c) or (4), as the case may be;

[^{F3}“electronic communication” has the same meaning as in section 15(1) of the Electronic Communications Act 2000]

^{F4}
...

“initial claim” means a claim for subsidy pursuant to article 4(2)(a);

“final claim” means a claim for subsidy pursuant to article 4(2)(c);

“mid-year claim” means a claim for subsidy pursuant to article 4(2)(b);

“final subsidy” means any subsidy which is not interim subsidy [^{F5}or an amount paid, withheld or deducted pursuant to article 8A];

“interim subsidy” means subsidy pursuant to articles ^{F6}... 8(1) or 9(4), as the case may be;

“the form” means a printed document or any other format upon which a claim may be set out, or any combination of such formats or alternative formats, as the Secretary of State determines; and

“the relevant office” means such office as may be designated by the Secretary of State.

Textual Amendments

- F1** Words in art. 2 inserted (1.4.2004) by [Income-related Benefits \(Subsidiary to Authorities\) Amendment Order 2004 \(S.I. 2004/646\)](#), art. 1(1), **Sch. para. 1**
- F2** Words in art. 2 omitted (with effect in accordance with art. 1(2) of the commencing S.I.) by virtue of [Income-related Benefits \(Subsidy to Authorities\) Amendment Order 2005 \(S.I. 2005/369\)](#), arts. 1(1), **3(2)**
- F3** Words in art. 2 inserted (5.2.2007) by [Income-related Benefits \(Subsidy to Authorities\) \(Miscellaneous Amendments and Electronic Communications\) Order 2007 \(S.I. 2007/26\)](#), arts. 1(1), **2(2)**

Status: Point in time view as at 25/07/2014.

Changes to legislation: There are currently no known outstanding effects for the The Income-related Benefits (Subsidy to Authorities) Order 1998, PART II. (See end of Document for details)

- F4** Words in art. 2 omitted (with effect in accordance with art. 1(2) of the commencing S.I.) by virtue of [Income-related Benefits \(Subsidy to Authorities\) Amendment Order 2005 \(S.I. 2005/369\)](#) , arts. 1(1) , **3(2)**
- F5** Words in art. 2 inserted (with effect in accordance with art. 1(2) of the commencing S.I.) by [Income-related Benefits \(Subsidy to Authorities\) Amendment Order 2006 \(S.I. 2006/54\)](#) , arts. 1(1) , **2(2)**
- F6** Words in art. 2 omitted (14.12.1998) by virtue of [The Income-related Benefits \(Subsidy to Authorities\) Amendment Order 1998 \(S.I. 1998/2865\)](#) , arts. 1(1) , **2**

Conditions for payment of subsidy

3. Subject to articles 9(3) and 10, no final subsidy shall be paid unless the conditions specified in the following provisions of this Part have been complied with.

[^{F7}Electronic communications

3A.—(1) The Secretary of State, an authority or auditor may use an electronic communication in connection with any claim, audit or payment of subsidy provided it is made in accordance with the provisions set out in Part 2 of Schedule 6.

(2) Any reference to an electronic communication in this Order means an electronic communication made in accordance with those provisions.

(3) Schedule 6 makes further provisions relating to electronic communications.]

- Textual Amendments**
- F7** Art. 3A inserted (5.2.2007) by [Income-related Benefits \(Subsidy to Authorities\) \(Miscellaneous Amendments and Electronic Communications\) Order 2007 \(S.I. 2007/26\)](#), arts. 1(1), **2(3)**

Requirement of claim

4.—(1) The first condition is that subsidy shall be claimed in accordance with the provisions of and in the manner specified by this article.

(2) There shall be submitted by an authority to the Secretary of State, at the relevant office, on the form supplied by him to that authority [^{F8}or by means of an electronic communication], the following claims for subsidy, by reference to the amount of relevant benefit that that authority—

- (a) estimates it will pay during the relevant year, by 1st March in the year preceding the relevant year;
- (b) estimates it has up to that time and will by the end of that relevant year have paid, by 31st August in the relevant year;
- (c) has paid in the relevant year, by [^{F9}30th April] in the following year.

(3) [^{F10}Except where an authority submits a claim by means of an electronic communication,] the final claim shall be copied to the authority’s auditor, by [^{F11}30th April] in the following year.

- ^{F12}(4)
- ^{F12}(4ZA)
- ^{F13}[^{F14}(4A)

(4B) An authority in Wales shall—

- (a) if required to do so by the Secretary of State, submit to him, at the relevant office, in any of the above claims or returns, or

- (b) if required to do so by the Secretary of State or the National Assembly for Wales, submit to him or, as the case may be, to them, at the relevant office, by way of an additional return on such form as is supplied by him or them [^{F15}or by means of an electronic communication] to that authority and not later than such date as he or they may require,

details in relation to subsidy in respect of rebates granted to tenants of dwellings within the authority's Housing Revenue Account.]

(5) All claims and returns submitted by an authority consequent upon this article shall be signed [^{F16}or submitted by means of an electronic communication]—

- (a) in the case of an authority in England or Wales, by [^{F17}the authority's chief finance officer, as defined in section 5(8) of the Local Government and Housing Act 1989, or an officer to whom that officer has made a formal delegation];
- (b) in the case of an authority in Scotland, by the proper officer pursuant to section 95 of the Local Government (Scotland) Act 1973 ^{M1}.

Textual Amendments

- F8** Words in art. 4(2) inserted (5.2.2007) by [Income-related Benefits \(Subsidy to Authorities\) \(Miscellaneous Amendments and Electronic Communications\) Order 2007 \(S.I. 2007/26\)](#), arts. 1(1), **2(4)(a)**
- F9** Words in art. 4(2)(c) substituted (with effect in accordance with art. 1(3) of the commencing S.I.) by [The Income-related Benefits \(Subsidy to Authorities\) Amendment Order 2013 \(S.I. 2013/266\)](#), arts. 1(1), **3**
- F10** Words in art. 4(3) inserted (5.2.2007) by [Income-related Benefits \(Subsidy to Authorities\) \(Miscellaneous Amendments and Electronic Communications\) Order 2007 \(S.I. 2007/26\)](#), arts. 1(1), **2(4)(c)**
- F11** Words in art. 4(3) substituted (with effect in accordance with art. 1(2) of the commencing S.I.) by [The Income-related Benefits \(Subsidy to Authorities\) and Discretionary Housing Payments \(Grants\) Amendment Order 2014 \(S.I. 2014/1667\)](#), arts. 1(1), **2(1)(a)**
- F12** Art. 4(4)(4ZA) omitted (with effect in accordance with art. 1(2) of the commencing S.I.) by virtue of [The Income-related Benefits \(Subsidy to Authorities\) Amendment Order 2011 \(S.I. 2011/2957\)](#), arts. 1(1), **2(1)(a)**
- F13** Art. 4(4A) omitted (5.2.2007) by virtue of [Income-related Benefits \(Subsidy to Authorities\) \(Miscellaneous Amendments and Electronic Communications\) Order 2007 \(S.I. 2007/26\)](#), arts. 1(1), **2(4)(d)**
- F14** Art. 4(4A)(4B) inserted (1.4.2004) by [Income-related Benefits \(Subsidary to Authorities\) Amendment Order 2004 \(S.I. 2004/646\)](#), art. 1(1), **Sch. 1 para. 2(a)**
- F15** Words in art. 4(4B) inserted (5.2.2007) by [Income-related Benefits \(Subsidy to Authorities\) \(Miscellaneous Amendments and Electronic Communications\) Order 2007 \(S.I. 2007/26\)](#), arts. 1(1), **2(4)(e)**
- F16** Words in art. 4(5) inserted (5.2.2007) by [Income-related Benefits \(Subsidy to Authorities\) \(Miscellaneous Amendments and Electronic Communications\) Order 2007 \(S.I. 2007/26\)](#), arts. 1(1), **2(4)(f)**
- F17** Words in art. 4(5)(a) substituted (1.4.2004) by [Income-related Benefits \(Subsidary to Authorities\) Amendment Order 2004 \(S.I. 2004/646\)](#), art. 1(1), **Sch. para. 2(b)**

Marginal Citations

- M1** 1973 c.65 .

Status: Point in time view as at 25/07/2014.

Changes to legislation: There are currently no known outstanding effects for the The Income-related Benefits (Subsidy to Authorities) Order 1998, PART II. (See end of Document for details)

^[F18] Requirement to keep records and provide information

- 5.—(1) The second condition is that the authority submitting a claim shall—
- (a) provide to the Secretary of State the information referred to in paragraph (2) ^[F19]in written or electronic form]; and
 - (b) keep and, where the Secretary of State requires it or it is otherwise appropriate to do so, produce records ^[F20]in written or electronic form] with a bearing on that claim.
- (2) The information referred to in this paragraph is such information as the Secretary of State requires, or as may otherwise be necessary, to satisfy him that—
- (a) the claim is ^[F21]fairly stated and in accordance with the relevant articles of this Order]; and
 - (b) any subsidy claimed or paid for the relevant year or for an earlier year has been properly claimed or paid in accordance with the provision of this Order or, as the case may be, the previous Orders.]

Textual Amendments

- F18** Art. 5 substituted (14.12.1998) by [The Income-related Benefits \(Subsidy to Authorities\) Amendment Order 1998 \(S.I. 1998/2865\)](#), arts. 1(1), **3**
- F19** Words in art. 5(1)(a) inserted (5.2.2007) by [Income-related Benefits \(Subsidy to Authorities\) \(Miscellaneous Amendments and Electronic Communications\) Order 2007 \(S.I. 2007/26\)](#), arts. 1(1), **2(5)(a)**
- F20** Words in art. 5(1)(b) inserted (5.2.2007) by [Income-related Benefits \(Subsidy to Authorities\) \(Miscellaneous Amendments and Electronic Communications\) Order 2007 \(S.I. 2007/26\)](#), arts. 1(1), **2(5)(b)**
- F21** Words in art. 5(2)(a) substituted (5.2.2007) by [Income-related Benefits \(Subsidy to Authorities\) \(Miscellaneous Amendments and Electronic Communications\) Order 2007 \(S.I. 2007/26\)](#), arts. 1(1), **2(5)(c)**

Requirement of audit

- 6.—(1) Subject to article 9(4), the third condition is that the authority
- ^[F22](ia) shall, in the case of an authority in England, procure that their base data return is audited by the authority's auditor and that the audited return is submitted to the Secretary of State ^[F23]in written or electronic form] at the relevant office by 10th October in the year before the relevant year;]
 - (a) shall procure that their final claim is audited by the authority's auditor by ^[F24]30th November] in the following year; and
 - (b) shall comply with the following provisions of this article.
- (2) The authority shall—
- (a) provide such information ^[F25]in written or electronic form]; and
 - ^[F26](b) keep, and where asked to do so, produce records in written or electronic form with a bearing on its claim,
- as may be required by the auditor or as may be otherwise required to enable that authority to show and its auditor to check, that that claim is fairly stated and in accordance with the relevant articles of this Order.]

[^{F27}(3) No final subsidy shall be paid until the authority's auditor has certified on the claim for or by means of an electronic communication that the final claim is fairly stated and in accordance with the relevant articles of this Order.]

Textual Amendments

- F22** Art. 6(1)(ia) inserted (1.4.2004) by [Income-related Benefits \(Subsidiary to Authorities\) Amendment Order 2004 \(S.I. 2004/646\)](#) , art. 1(1) , **Sch. 1 para. 3**
- F23** Words in art. 6(1)(ia) inserted (5.2.2007) by [Income-related Benefits \(Subsidy to Authorities\) \(Miscellaneous Amendments and Electronic Communications\) Order 2007 \(S.I. 2007/26\)](#), arts. 1(1), **2(6)(a)**
- F24** Words in art. 6(1)(a) substituted (with effect in accordance with art. 1(3) of the commencing S.I.) by [The Income-related Benefits \(Subsidy to Authorities\) Amendment Order 2009 \(S.I. 2009/30\)](#), arts. 1(1), **2**
- F25** Words in art. 6(2)(a) inserted (5.2.2007) by [Income-related Benefits \(Subsidy to Authorities\) \(Miscellaneous Amendments and Electronic Communications\) Order 2007 \(S.I. 2007/26\)](#), arts. 1(1), **2(6)(b)**
- F26** Art. 6(2)(b) substituted (5.2.2007) by [Income-related Benefits \(Subsidy to Authorities\) \(Miscellaneous Amendments and Electronic Communications\) Order 2007 \(S.I. 2007/26\)](#), arts. 1(1), **2(6)(c)**
- F27** Art. 6(3) substituted (5.2.2007) by [Income-related Benefits \(Subsidy to Authorities\) \(Miscellaneous Amendments and Electronic Communications\) Order 2007 \(S.I. 2007/26\)](#), arts. 1(1), **2(6)(d)**

Final condition for the payment of subsidy

7. Subject to article 9(4), the fourth condition is that an authority shall satisfy the Secretary of State that its claim—

- (a) is true and complete;
- (b) is supported and, if appropriate, supplemented by all the information the Secretary of State requires; and
- (c) fairly represents the expenditure in relation to relevant benefit incurred or likely to be incurred, as the case may be, by the authority in the relevant year.

In year instalments of subsidy

8.—(1) Where an authority has submitted, by the due date—

- (a) the initial claim, mid-year claim and the returns under article 4(4), as the case may be, in accordance with the requirements of this Part; and
- (b) the conditions of this Part in relation to such claims have been complied with,

the Secretary of State shall pay each month, to each such authority that has submitted such claims as are by that date due, instalments of subsidy, in accordance with paragraph (2).

(2) The instalments payable by way of interim subsidy to an authority under paragraph (1) shall be such amounts as the Secretary of State considers appropriate in the circumstances of the case, but the total amount of such instalments paid in the relevant year shall not exceed the amount which, in his estimation, is likely to be payable by way of final subsidy, taking account of any withholding, reducing or deducting of subsidy by him, following the submission and audit of that authority's final claim.

Status: Point in time view as at 25/07/2014.

Changes to legislation: There are currently no known outstanding effects for the The Income-related Benefits (Subsidy to Authorities) Order 1998, PART II. (See end of Document for details)

[^{F28}Payment of subsidy before audit complete

8A.—(1) Where an authority has submitted the final claim by the due date in accordance with article 4(2)(c) but the claim has not yet been audited in accordance with article 6 and—

- (a) the Secretary of State estimates that the final subsidy will exceed the amount of interim subsidy that was paid to the authority in the relevant year, taking account of any withholding, reducing or deducting of subsidy by him, following the audit of that authority’s final claim, he may pay subsidy in accordance with paragraph (2); or
- (b) the Secretary of State estimates that the interim subsidy that was paid to the authority in the relevant year will exceed the amount of final subsidy, taking account of any withholding, reducing or deducting of subsidy by him, following the audit of that authority’s final claim, he may withhold or deduct subsidy in accordance with paragraph (2).

(2) The amounts that may be paid to, withheld or deducted from an authority under paragraph (1) shall be equal to the amount which the Secretary of State estimates is likely to be payable by way of final subsidy, taking account of any withholding, reducing or deducting of subsidy by him, following the audit of that authority’s final claim.]

Textual Amendments

F28 Art. 8A inserted (with effect in accordance with art. 1(2) of the commencing S.I.) by [Income-related Benefits \(Subsidy to Authorities\) Amendment Order 2006 \(S.I. 2006/54\)](#) , arts. 1(1) , **2(4)**

Payment of subsidy for the relevant year

9.—(1) Subject to paragraphs (2) and (3) and to any subsidy withheld, reduced or deducted in accordance with sections 140B(4) or 140C(3), as the case may be, where he is satisfied that—

- (a) the authority has submitted its final claim;
- (b) the auditor has audited and certified that claim; and
- (c) the conditions of this Part have been complied with,

the Secretary of State shall pay to that authority final subsidy calculated in accordance with Part III.

[^{F29}(2) Any payment pursuant to paragraph (1) shall only be in respect of the balance of subsidy due after the Secretary of State—

- (a) has deducted any interim subsidy paid during or in respect of the relevant year; [^{F30}and]
- (b) has added or deducted, as the case may be, any amount paid, recovered or withheld pursuant to article 8A in respect of the relevant year;

^{F31}(c)

^{F31}(d)]

(3) The Secretary of State may pay subsidy under paragraph (1) once that submission, audit or certification, as the case may be, has occurred, despite it occurring after the time required in this Part.

(4) In a case where the third or fourth condition, as the case may be, are not met in relation to any authority, the Secretary of State may pay such amount of subsidy as he is satisfied will be due when that condition is met.

[^{F32}(5) In paragraph (1), a reference to paying final subsidy calculated in accordance with Part III may also be a reference to deducting or withholding subsidy, as the case may be.]

Textual Amendments

- F29** Art. 9(2) substituted (with effect in accordance with art. 1(2) of the commencing S.I.) by [Income-related Benefits \(Subsidy to Authorities\) Amendment Order 2006 \(S.I. 2006/54\)](#) , arts. 1(1) , **2(5)(a)**
- F30** Word in art. 9(2) inserted (with effect in accordance with art. 1(2) of the commencing S.I.) by [The Income-related Benefits \(Subsidy to Authorities\) Amendment Order 2011 \(S.I. 2011/2957\)](#), arts. 1(1), **2(1)(b)(i)**
- F31** Art. 9(2)(c)(d) omitted (with effect in accordance with art. 1(2) of the commencing S.I.) by virtue of [The Income-related Benefits \(Subsidy to Authorities\) Amendment Order 2011 \(S.I. 2011/2957\)](#), arts. 1(1), **2(1)(b)(ii)**
- F32** Art. 9(5) inserted (with effect in accordance with art. 1(2) of the commencing S.I.) by [Income-related Benefits \(Subsidy to Authorities\) Amendment Order 2006 \(S.I. 2006/54\)](#) , arts. 1(1) , **2(5)(b)**

Transitional Protection Adjustments

^{F33}**9A**

Textual Amendments

- F33** Art. 9A omitted (with effect in accordance with art. 1(2) of the commencing S.I.) by virtue of [The Income-related Benefits \(Subsidy to Authorities\) Amendment Order 2011 \(S.I. 2011/2957\)](#), arts. 1(1), **2(1)(c)**

Estimating subsidy

10. If an authority has not, at the time specified in articles 4 or 6(1), as the case may be, complied with any condition specified in this Part, the Secretary of State may estimate the amount of any subsidy, including any interim subsidy, payable to that authority and he may employ for that purpose such criteria as he considers relevant.

Status:

Point in time view as at 25/07/2014.

Changes to legislation:

There are currently no known outstanding effects for the The Income-related Benefits (Subsidy to Authorities) Order 1998, PART II.