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**2000 No. 2340**

**SOCIAL SECURITY**

**The Income-related Benefits (Subsidy to Authorities)  
Amendment (No. 2) Order 2000**

<i>Made</i> - - - - -	<i>1st September 2000</i>
<i>Laid before Parliament</i>	<i>4th September 2000</i>
<i>Coming into force</i> - -	<i>25th September 2000</i>

The Secretary of State for Social Security, with the consent of the Treasury(a), in exercise of the powers conferred by sections 140B(1) and (4), 140F(2) and 189(1), (4) and (5) of the Social Security Administration Act 1992(b), and of all other powers enabling him in that behalf, after consultation with organisations appearing to him to be representative of the authorities concerned(c), hereby makes the following Order:

**Citation and commencement**

1. This Order may be cited as the Income-related Benefits (Subsidy to Authorities) Amendment (No. 2) Order 2000 and shall come into force on 25th September 2000.

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

2. In the Income-related Benefits (Subsidy to Authorities) Order 1998(d)—
- (a) in article 11 (interpretation of Part III)—
- (i) in paragraph (1), there shall be inserted at the appropriate places the following entries—
- ““appeal tribunal” has the meaning it bears in section 39(1) of the Social Security Act 1998(e);”;
- ““Commissioner” has the meaning it bears in section 39(1) of the Social Security Act 1998;”;
- (ii) in paragraph (2), after the words “lawfully paid” there shall be inserted the words “or treated as lawfully paid under paragraph (3)”;
- (iii) after paragraph (2) there shall be inserted the following paragraph—
- “(3) An amount of relevant benefit which—
- (a) would fall to be paid in the relevant year for a period in a preceding year; and
- (b) is not paid by virtue of regulation 97 or 102 of the Housing Benefit Regulations (offsetting and method of recovery) on the ground that an overpayment of benefit was made in that preceding year for that period,

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- (a) See section 189(8) of the Social Security Administration Act (c. 5); amended by paragraph 3(5) of Schedule 13 to the Housing Act 1996 (c. 52), paragraph 10 of Schedule 3 to the Social Security (Recovery of Benefits) Act 1997 (c. 27) and paragraph 57(3) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2).
- (b) 1992 c. 5; sections 140A to 140F were inserted by the Housing Act 1996 (c. 52), section 121 and Schedule 12, paragraph 4. Section 140B was amended by the Social Security Administration (Fraud) Act 1997 (c. 47), section 10, Schedule 1, paragraph 7.
- (c) See section 176(1)(b) of the Social Security Administration Act 1992.
- (d) S.I. 1998/562; the relevant amending instruments are S.I. 1999/550 and 2000/1091.
- (e) 1998 c. 14; section 39(1) is amended by the Social Security Contributions (Transfer of Functions, etc.) Act 1999, section 18 and Schedule 7, paragraph 35.

shall be treated as lawfully paid in the relevant year for that period.”;

- (b) article 12 (amount of subsidy) shall be renumbered article 12(1) and—
- (i) at the beginning of that renumbered article 12(1) there shall be inserted the words—
- “Subject to paragraph (2),”;
- and
- (ii) after the renumbered article 12(1) there shall be inserted the following paragraphs—
- “(2) Subject to paragraph (3), any sum paid after 1st April 1997 by way of subsidy in respect of an overpayment of relevant benefit shall be deducted from any amount of subsidy which would otherwise fall to be paid in respect of any payment of benefit which is treated, in accordance with paragraph 11(3), as made for the same period as that overpayment.
- (3) A deduction shall not be made under paragraph (2) where the sum already paid by way of subsidy is greater than the amount which would fall to be paid.”;
- (c) in article 14(2) (backdated benefit), for the reference to “article 18(1)(b)(ii)” there shall be substituted a reference to “article 18(1)(b)(iii)(a)”;
- (d) in article 18 (additions to subsidy)—
- (i) for paragraph (4) there shall be substituted the following paragraph—
- “(4) In paragraphs (1)(b)(i) and (3) and in article 19(1)(e), “departmental error overpayment” means an overpayment caused by a mistake made, whether in the form of an act or omission—
- (a) by an officer of the Department of Social Security or the Department for Education and Employment, acting as such, or a person providing services to either Department; or
- (b) in a decision of an appeal tribunal or a Commissioner,
- where the claimant, a person acting on his behalf or any other person to whom the payment is made did not cause or materially contribute to that mistake but excludes any mistake of law which is shown to have been an error only by virtue of a subsequent decision of a Commissioner or a court.”;
- (ii) for paragraph (6) there shall be substituted the following paragraph—
- “(6) In paragraph (2)(a), “authority error overpayment” means an overpayment caused by a mistake made, whether in the form of an act or omission, by an authority where the claimant, a person acting on his behalf or any other person to whom the payment is made did not cause or materially contribute to that mistake but excludes any mistake of law which is shown to have been an error only by virtue of a subsequent decision of a court.”;
- (e) in the table in paragraph 18 in Part V(b) of Schedule 4 (high rents and high allowances)—
- (i) there shall be inserted at the appropriate places the following entries—
- |                    |          |
|--------------------|----------|
| “Renfrewshire      | 103.93”  |
| “South Ayrshire    | 119.53”  |
| “South Lanarkshire | 103.93”; |
- and

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(a) Article 18(1)(b) was substituted by S.I. 2000/1091.

(b) Part V was substituted by S.I. 1999/550 and is amended by S.I. 2000/1091.

(ii) in column (2)—

(aa) for the entry in respect of Dumfries and Galloway there shall be substituted the figure “103.86”; and

(bb) for the entry in respect of Stirling there shall be substituted the figure “101.56”.

30th August 2000

We consent

1st September 2000

*Alistair Darling*  
Secretary of State,  
Department of Social Security

*Jim Dowd,*  
*Greg Pope*  
Two of the Lords Commissioners  
of Her Majesty's Treasury

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order further amends the Income-related Benefits (Subsidy to Authorities) Order 1998 (S.I. 1998/562) (“the Order”).

Article 2(a) and (b) amends articles 11 and 12 of the Order. Subsidy may be paid in respect of benefit payments made in previous years which were overpayments at the time they were made but to which claimants subsequently became entitled. However, subsidy paid in respect of the overpayments is deducted.

Article 2(d) amends article 18 of the Order to remove references to obsolete offices.

Article 2(e) amends thresholds above which reduced subsidy is payable on rent allowances.

This Order also makes minor and consequential amendments to the Order.

This Order does not impose a charge on business.

£1.50

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