

2001 No. 1167**SOCIAL SECURITY****The Discretionary Financial Assistance
Regulations 2001***Made - - - - - 25th March 2001**Laid before Parliament 28th March 2001**Coming into force - - - 2nd July 2001*

The Secretary of State for Social Security in exercise of the powers conferred upon him by section 69(1) to (4) and (7) of the Child Support, Pensions and Social Security Act 2000(a) and section 189(4) to (6) of the Social Security Administration Act 1992(b) after consultation with organisations appearing to him to be representative of the authorities concerned(c), by this Instrument which is made before the end of the period of six months beginning with the coming into force of section 69 of the Child Support, Pensions and Social Security Act 2000(d), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Discretionary Financial Assistance Regulations 2001 and shall come into force on 2nd July 2001.

(2) In these Regulations, “the Housing Benefit Regulations” means the Housing Benefit (General) Regulations 1987(e).

Discretionary housing payments

2.—(1) Subject to paragraphs (2) and (3) and the following regulations, a relevant authority may make payments by way of financial assistance (“discretionary housing payments”) to persons who—

- (a) are entitled to housing benefit or council tax benefit or to both; and
- (b) appear to such an authority to require some further financial assistance (in addition to the benefit or benefits to which they are entitled) in order to meet housing costs.

(2) Subject to paragraph (3) and regulations 4 and 5, a relevant authority has a discretion—

- (a) as to whether or not to make discretionary housing payments in a particular case; and
- (b) as to the amount of the payments and the period for, or in respect of which, they are made.

(3) Paragraphs (1) and (2) shall not apply in respect of housing costs incurred in any period before 2nd July 2001—

(a) 2000 c. 19. Section 69(7) is an interpretation provision and is cited because of the definition of “prescribed”.

(b) 1992 c. 5.

(c) See section 176(1) of the Social Security Administration Act 1992 as amended by section 69(6) of the Child Support, Pensions and Social Security Act 2000.

(d) See section 170 (as amended by section 73 of the Child Support, Pensions and Social Security Act 2000) and 173(5)(a) of the Social Security Administration Act 1992.

(e) S.I. 1987/1971.

Regs. 2-3

- (a) in the case of a person entitled to council tax benefit who requires further financial assistance in order to meet his liability to pay council tax;
- (b) in the case of a person entitled to housing benefit who requires further financial assistance in order to meet housing costs (other than costs in respect of council tax) arising from his liability to make periodical payments in respect of the dwelling which he occupies as his home.

Circumstances in which discretionary housing payments may be made

3. For the purposes of section 69(2)(a) of the Child Support, Pensions and Social Security Act 2000, ►or section 7, 8 or 9 of the Social Security Fraud Act 2001◄ the prescribed circumstance in which discretionary housing payments may be made is where a person has made a claim for a discretionary housing payment and the requirement for financial assistance does not arise as a consequence of—

- (a) a liability to meet any of the ineligible service charges specified in Schedule 1 to the Housing Benefit Regulations (ineligible service charges)(a);
- (b) a liability to meet charges for water, sewerage or allied environmental services;
- (c) a liability to meet council tax payments in a case where the person is entitled to housing benefit but not council tax benefit;
- (d) a liability to make periodical payments in respect of such housing costs as are referred to in regulation 10 of the Housing Benefit Regulations(b) in a case where the person is entitled to council tax benefit but not housing benefit;
- (e) a liability to meet council tax where the conditions in section 131(4) and (5) of the Social Security Contributions and Benefits Act 1992(c) are not satisfied and alternative maximum council tax benefit is payable;
- (f) a liability to meet the increase in such payment as is referred to in regulation 8(2A) of the Housing Benefit Regulations(d);
- (g) a reduction of an amount of benefit by virtue of section 46(11) of the Child Support Act 1991(e);
- (h) a reduction of a specified amount of benefit by virtue of section 2A of the Social Security Administration Act 1992(f);
- (i) a reduction in the amount of a jobseeker's allowance payable by virtue of section 17 of the Jobseekers Act 1995(g);
- (j) the non-payability of a jobseeker's allowance or a reduction in the amount of a jobseeker's allowance payable, pursuant to a decision made by virtue of section 19 or 20A of the Jobseekers Act 1995(h);
- (k) the suspension of payment of an amount of benefit by virtue of section 21, 22 or 24 of the Social Security Act 1998(i) or section 68 of, and paragraphs 13 and 14 of Schedule 7 to, the Child Support, Pensions and Social Security Act 2000.

- (l) a restriction in relation to the payment of benefit imposed pursuant to section 62 or 63 of the Child Support, Pensions and Social Security Act 2000 (loss of benefit provisions).◄

Words in reg. 3 inserted by reg. 10 of S.I. 2002/490 as from 1.4.02.

Para. (l) inserted in reg. 3 by reg. 2(b) of S.I. 2001/1711 as from 15.10.01.

-
- (a) Relevant amending instruments are S.I. 1988/1444, 1989/416, 1990/546, 1991/235 and 1599, 1993/317, 1994/1003, 1996/599, 1997/65 and 1999/264.
 - (b) Relevant amending instruments are S.I. 1988/1971, 1990/546, 1993/317, 1995/1644 and 2868, 1996/965 and 2001/487.
 - (c) 1992 c. 4.
 - (d) Relevant amending instrument is S.I. 1991/201.
 - (e) 1991 c. 48.
 - (f) Section 2A was inserted by section 57 of the Welfare Reform and Pensions Act 1999 (c. 30).
 - (g) 1995 c. 18. Section 17 was amended by paragraph 11 of Schedule 7 to the Welfare Reform and Pensions Act 1999.
 - (h) Section 20A was inserted by paragraph 13 of Schedule 7 to the Welfare Reform and Pensions Act 1999.
 - (i) 1998 c. 14.

Limit on the amount of the discretionary housing payment that may be made

4. The amount of a discretionary housing payment (if calculated as a weekly sum) shall not exceed, in a case where the need for further financial assistance arises as a consequence of the liability to make—

- (a) periodical payments in respect of the dwelling which a person occupies as his home, other than payments in respect of council tax, an amount equal to the amount of the aggregate of the payments specified in regulation 10(1) of the Housing Benefit Regulations less the aggregate of the amounts referred to in regulation 10(3)(b)(i) to (iii) of those Regulations, calculated on a weekly basis in accordance with regulation 69 and 70 of those Regulations^(a); or
- (b) payments in respect of council tax, an amount equal to the weekly amount of council tax liability of that person calculated on a weekly basis.

Period for, or in respect of which, discretionary housing payments may be made

5. A relevant authority may restrict the period for or in respect of which discretionary housing payments may be made to such period as it considers appropriate in the particular circumstances of a case.

Form, manner and procedure for claims

6.—(1) A relevant authority may accept a claim for discretionary housing payments—

- (a) in such form and manner as it approves;
- (b) from—
 - (i) a person entitled to either housing benefit or, as the case may be, council tax benefit; or
 - (ii) where it appears reasonable in the circumstances of a particular case, a person acting on behalf of a person so entitled.

(2) A relevant authority may pay discretionary housing payments to either the person entitled to housing benefit or council tax benefit, or where it appears reasonable in the circumstances of a particular case, such other person as the authority thinks appropriate.

(3) A relevant authority shall give a person who has claimed discretionary housing payments or who has requested a review of a decision made in respect of his claim, written notice of its decision in respect of that claim or review and the reasons for that decision as soon as is reasonably practicable.

Provision of information

7. A person claiming or receiving discretionary housing payments shall provide a relevant authority with the following information—

- (a) particulars of the grounds of claim or, as the case may be, particulars of the grounds for a review;
- (b) changes in circumstances which may be relevant to the continuance of discretionary housing payments,

and such other information as may be specified by the relevant authority within such time as that authority thinks appropriate.

Reviews

8.—(1) A relevant authority may review any decision it has made with respect to the making, cancellation or recovery of discretionary housing payments in such circumstances as it thinks fit.

(a) Relevant amending instruments are S.I. 1990/546, 1996/194 and 2001/487.

(2) Without prejudice to the generality of paragraph (1) above, a relevant authority may, on any such review, cancel the making of further such payments and recover a payment already made where that authority has determined that—

- (a) whether fraudulently or otherwise, any person has misrepresented, or failed to disclose, a material fact and, as a consequence of that misrepresentation or failure to disclose, a payment has been made; or
- (b) an error has been made when determining the application for a payment, and as a consequence of that error, a payment had been made which would not have been made but for that error.

Signed by authority of the Secretary of State for Social Security.

25th March 2001

Angela Eagle
Parliamentary Under-Secretary of State,
Department of Social Security

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Discretionary Financial Assistance Regulations 2001 (“these Regulations”) are made by virtue of section 69 of the Child Support, Pensions and Social Security Act 2000 and are therefore exempt from the requirement in section 172(2) of the Social Security Administration Act 1992 (c. 5) to refer proposals to make Regulations to the Social Security Advisory Committee and are made without reference to that Committee.

Regulation 1 of these Regulations makes general provision relating to their citation and commencement.

Regulation 2 provides relevant authorities with a power to make discretionary payments by way of financial assistance (“discretionary housing payments”).

Regulation 3 provides the circumstances in which discretionary housing payments may be made.

Regulation 4 provides a limit on the amount of discretionary housing payments that may be made.

Regulation 5 provides relevant authorities with discretion as to the period for, or in which, discretionary housing payments may be made.

Regulation 6 makes provision as to the form, manner and procedure for claims.

Regulation 7 provides for the provision of information by persons claiming or receiving discretionary housing payments.

Regulation 8 provides relevant authorities with discretion to review any decision it has made in respect of discretionary housing payments.

These Regulations do not impose a charge on business.