

2001 No. 2340**SOCIAL SECURITY****The Discretionary Housing Payments (Grants)
Order 2001**

<i>Made - - - -</i>	<i>27th June 2001</i>
<i>Laid before Parliament</i>	<i>28th June 2001</i>
<i>Coming into force - -</i>	<i>2nd July 2001</i>

The Secretary of State for Work and Pensions, with the consent of the Treasury(a), in exercise of the powers conferred upon him by sections 140B(1), 140C(1) and (4) and 189(4) to (6) of the Social Security Administration Act 1992(b), and section 70 of the Child Support, Pensions and Social Security Act 2000(c) and of all other powers enabling him in that behalf, after consultation with organisations appearing to him to be representative of the authorities concerned(d), hereby makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Discretionary Housing Payments (Grants) Order 2001 and shall come into force on 2nd July 2001.

(2) In this Order, unless the context otherwise requires—

“the Act” means the Child Support, Pensions and Social Security Act 2000;

“claim” means a claim by a relevant authority for payments towards the cost of making discretionary housing payments;

▶“final claim” means any claim which falls to be made in accordance with article 3(2)(g);”

“non-audit claim” means any claim made by a relevant authority in England and Wales under article 3(2)(f) where the total amount of the claim in respect of the relevant year is less than £50,000;◀

“relevant year” means any year commencing on or after 1st April 2002.

Defn of “final claim” & “non-audit claim” inserted in art. 1(2) by art. 2(2) of S.I. 2004/2329 as from 29.9.04.

Determining the amount of grant

2. The payments made to a relevant authority in accordance with section 70 of the Act (grants towards the cost of discretionary housing payments) shall be determined by the Secretary of State having regard to—

- (a) the most recent figures available in respect of the level of expenditure for housing benefit and council tax benefit by the authority; and
- (b) such other matters as he considers appropriate.

(a) See s. 189(8) of the Social Security Administration Act 1992 (c. 5); amended by para. 3(5) of Sch. 13 to the Housing Act 1996 (c. 52), para. 10 of Sch. 3 to the Social Security (Recovery of Benefits) Act 1997 (c. 27) and para. 57(3) of Sch. 3 to the Social Security (Transfer of Functions etc.) Act 1999 (c. 2).

(b) 1992 c. 5; s. 140B and 140C were inserted by the Housing Act 1996, Sch. 12, para. 4 and s. 140B(1) was amended by the Social Security Administration (Fraud) Act 1997 (c. 47), Sch. 1, para. 7. The s. are applied to the payments to which this Instrument relates by virtue of s. 70(2) of the Child Support, Pensions and Social Security Act 2000.

(c) 2000 c. 19.

(d) See s. 176(1) of the Social Security Administration Act 1992.

Claims

3.—(1) Subject to the following paragraphs, a claim made under this Order shall be submitted in such manner and on such form, whether in a printed document or any other format, as may be approved or supplied by the Secretary of State.

(2) A claim shall be submitted by the relevant authority—

- (a) estimating the amount of payments that the relevant authority believes it will make during the period from 2nd July 2001 to 31st March 2002, by 15th July 2001;
- (b) showing the amount of payments made during the year ending 31st March 2002, by 30th June 2002;
- (c) by 30th September 2002—
 - (i) showing the amount of payments made during the year ending 31st March 2002, and
 - (ii) certified by the auditor of the relevant authority that the entries on the claim are fairly stated;
- (d) estimating the amount of payments it believes it will make during the relevant year, by 1st April in that relevant year;
- (e) by 1st September in a relevant year, estimating the amount of payments it has made from 1st April of that relevant year and estimating the amount it shall be making during the remaining part of that relevant year;
- (f) showing the amount of payments made during the relevant year, by 30th June in the following relevant year; and
- (g) ►except where the claim is a non-audit claim,◀ by 30th September in a relevant year—
 - (i) showing the amount of payments made during the previous relevant year, and
 - (ii) certified by the auditor of the relevant authority that the entries on the claim are fairly stated.

(3) Claims submitted by a relevant authority in accordance with paragraph (2) of this article shall be signed—

- (a) in the case of a relevant authority in England and Wales, by the officer who is responsible for finance pursuant to section 151 of the Local Government Act 1972(a);
- (b) in the case of a relevant authority in Scotland, by the proper officer pursuant to section 95 of the Local Government (Scotland) Act 1973(b).

►Record and information provisions

4.—(1) A relevant authority shall, in relation to any relevant year—

- (a) keep such records as are likely to be required for the purpose described in paragraph (2), should there be a final claim by that authority in respect of that year; and
- (b) where there is such a claim, on request—
 - (i) produce such of those records, and
 - (ii) provide such other information,

as the auditor may require for the purpose described in paragraph (2).

(2) The purpose referred to in paragraph (1) is the purpose of satisfying the auditor that—

- (a) the entries on the claim form are correctly stated; and
- (b) expenditure on which the claim is based has been properly incurred,

so that a final claim may be made by the date specified in article 3(2)(g).

(3) The relevant authority shall, in relation to any relevant year—

- (a) keep such records as are likely, in connection with any claim the authority may make in respect of that year, to be required for the purpose described in

(a) 1972 c. 70.

(b) 1973 c. 65.

- sub-paragraph (b); and
- (b) on request—
- (i) produce in time such of those records, and
 - (ii) provide in time such other information,

as the Secretary of State may require for the purpose of satisfying himself that the claim is accurate and properly calculated.

(4) In paragraph (3), “in time” means no later than the end of the period of six weeks beginning with the day on which the request referred to in that paragraph is sent to the relevant authority.◀

Audit provisions

5. A relevant authority shall procure that the final claim is audited by its auditor by 30th September in the year following the year to which that claim relates.

►Payment

6. Subject to article 6A, the Secretary of State may make payments by way of instalments by reference to claims submitted in accordance with article 3 but no final payment shall be made until—

- (a) in the case of a non-audit claim, the Secretary of State is satisfied that no request for relevant information made in accordance with article 4(3) is outstanding; or
- (b) in the case of a final claim—
 - (i) the relevant authority’s auditor has certified on the claim form that the entries on the claim referred to in article 3(2)(c) and (g) are fairly stated;
 - (ii) the final claim is audited; and
 - (iii) the Secretary of State is satisfied that no request for relevant information made in accordance with article 4 is outstanding.◀

Art. 6 substituted and art. 6A added by art. 2(5) & (6) of S.I. 2004/2329 as from 29.9.04

►Estimating amounts

6A.—(1) Where, in relation to any relevant year, a relevant authority has not, before the time specified in article 3, 4 or 5, as the case may be, complied with any condition with which it is required under that article to comply, the Secretary of State may estimate the amount of any payment, including any payment by instalments, payable to that authority in accordance with section 70 of the Act in respect of that year, and may employ for that purpose such criteria as he considers relevant.◀

Limit on total expenditure

7.—(1) Subject to paragraph (2), for the purposes of section 70(3)(a) of the Act (the limit on the total amount of expenditure in any year that may be incurred by a relevant authority in making discretionary housing payments) the limit in any year is the amount of grant the Secretary of State determines to make to the relevant authority at the beginning of that year multiplied by 2.5.

(2) In the case of the period commencing 2nd July 2001 and ending 31st March 2002, the limit is the amount the Secretary of State has determined to make to a relevant authority as at 2nd July 2001 multiplied by 2.5.

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

26th June 2001 *Malcolm Wicks*
Parliamentary Under-Secretary of State for Work & Pensions

We consent,

27th June 2001 *John Heppell*
Nick Ainger
Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order sets out the procedure by which the Secretary of State will make payments towards the cost of discretionary housing payments in accordance with section 70 of the Child Support, Pensions and Social Security Act 2000.

Article 2 provides for the determination of the amount of grant the Secretary of State makes to a relevant authority.

Article 3 provides the procedure for making claims.

Article 4 makes provision in respect of the requirement to keep records and provision of information.

Article 5 makes provision in respect of audit requirements.

Article 6 makes provision in respect of payment of the grant.

Article 7 imposes a limit on the total amount of expenditure that may be incurred in any year by a relevant authority in making discretionary housing payments.

This Order does not impose a charge on business.