

POLICY NOTE

THE DISCRETIONARY HOUSING PAYMENTS (LIMIT ON TOTAL EXPENDITURE) REVOCATION (SCOTLAND) ORDER 2014

SSI 2014/298

1. The above instrument has been made by the Scottish Ministers under powers conferred upon them by section 70(3)(a) of the Child Support, Pensions and Social Security Act 2000. Devolved competence to make this instrument arises as a result of the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2014 (S.I. 2014/2918).
2. The instrument is, by virtue of section 70(5) of that Act, subject to negative procedure in the Scottish Parliament.

Background

3. The UK Government has legislated to provide local authorities across Great Britain with the ability to grant Discretionary Housing Payments (DHPs) to claimants in their areas who are entitled to Housing Benefit or the housing element of Universal Credit, and who appear to need further financial assistance to meet housing costs. Local authorities are able to exercise broad discretion to determine how and when DHPs are awarded. Each financial year the UK Government makes a contribution to the cost of DHP awards, and local authorities are able to add to this contribution, subject to a formula-based cap.
4. The power to make DHPs is conferred on local authorities by regulations made under section 69 of the 2000 Act, the Discretionary Financial Assistance Regulations 2001. In addition to the UK Government contribution the Scottish Ministers have made provision for additional funds for local authorities in Scotland to add to their spending on DHPs. The funding is provided to allow local authorities to fully mitigate a measure of the Department for Work and Pensions (DWP) known generally as the bedroom tax and in the DWP guidance and documentation as the Removal of the Spare Room Subsidy. Funding to local authorities has been allocated in order to fully compensate local authorities for the cost in DHPs of mitigating this measure. If spent in full the additional funds would cause some local authorities to exceed the statutory cap, and, therefore, the Scottish Ministers desire the statutory cap on DHPs to be removed.
5. The power to set the cap on the amount local authorities may spend on DHPs in a financial year is found in section 70(3)(a) of the Child Support, Pensions and Social Security Act 2000. Pursuant to this the cap is set out in the Discretionary Housing Payments (Grants) Order 2001. In response to a request for the Secretary of State to remove or lift the cap the Scotland Office offered to transfer powers from the Secretary of State to the Scottish Ministers.
6. The power to make this Order was transferred from the Secretary of State to the Scottish Ministers by virtue of an Order made under section 63(1) of the Scotland Act 1998 (c. 46) (Power to transfer functions): the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2014.

7. This Order revokes article 7(1) of the Discretionary Housing Payments (Grants) Order 2001 (S.I. 2001/2340) (“the 2001 Order”), which imposed the limit in the Great Britain, and article 2(2)(b) of the Income-related Benefits (Subsidy to Authorities) and Discretionary Housing Payments (Grants) Amendment Order 2014 (S.I. 2014/1667), which amended article 7(1) of the 2001 Order.

8. The revocation of these enactments extends only to Scotland and its effect is that there is no limit imposed on the expenditure on DHPs of local authorities in Scotland from the financial year commencing 1st April 2014.

Consultation

9. No consultation has been carried out specific to this Order.

Financial Effects

10. There will be no additional financial implications/costs as a result of this Order.

Scottish Government
Directorate for Housing, Regeneration and Welfare
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