

2001 No. 216

SOCIAL SECURITY

**The Discretionary Financial Assistance Regulations
(Northern Ireland) 2001**

Made 18th May 2001

Coming into operation 2nd July 2001

The Department for Social Development, in exercise of the powers conferred on it by section 60(1) to (4) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000^(a) and Article 74(4) to (6) of the Social Security (Northern Ireland) Order 1998^(b) and now vested in it^(c) and of all other powers enabling it in that behalf, by this statutory rule, which contains only regulations made by virtue of, or consequential upon, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000, hereby makes the following Regulations:

Citation, commencement and interpretation

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

(2) In these Regulations—

“the Child Support, Pensions and Social Security Act” means the Child Support, Pensions and Social Security Act (Northern Ireland) 2000;

“the Housing Benefit Regulations” means the Housing Benefit (General) Regulations (Northern Ireland) 1987^(d).

(3) The Interpretation Act (Northern Ireland) 1954^(e) shall apply to these Regulations as it applies to an Act of the Assembly.

Discretionary housing payments

2.—(1) Subject to paragraphs (2) and (3) and regulations 3 to 9, the Housing Executive may make payments by way of financial assistance (“discretionary housing payments”) to persons who—

(a) are entitled to housing benefit, and

(a) 2000 c. 4 (N.I.)
(b) S.I. 1998/1506 (N.I. 10)
(c) See Article 8(b) of S.R. 1999 No. 481
(d) S.R. 1987 No. 461; relevant amending Regulations are S.R. 1988 Nos. 314 and 424, S.R. 1989 No. 125, S.R. 1991 Nos. 47 and 337, S.R. 1992 No. 444, S.R. 1993 No. 145, S.R. 1994 No. 137, S.R. 1996 Nos. 73, 111, 115, 181 and 221, S.R. 1997 Nos. 22 and 376, S.R. 1998 No. 114, S.R. 1999 No. 416, S.R. 2000 Nos. 38 and 74 and S.R. 2001 No. 79
(e) 1954 c. 33 (N.I.)

(b) in a case where the appropriate maximum housing benefit has been restricted under regulation 10A of the Housing Benefit Regulations(a) appear to require further financial assistance (in addition to the benefit to which they are entitled) in order to meet housing costs.

(2) Subject to paragraph (3) and regulations 4 and 5, the Housing Executive 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 in the case of a person entitled to housing benefit who requires further financial assistance in order to meet housing costs 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 60(2)(a) of the Child Support, Pensions and Social Security Act (discretionary financial assistance with housing), 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(b) (ineligible service charges);

(b) a liability to meet rates;

(c) a liability to meet the increase in such payment as is referred to in regulation 8(2A) of the Housing Benefit Regulations(c) (eligible housing costs);

(d) a reduction of an amount of benefit by virtue of Article 43(11) of the Child Support Order(d)(failure to comply with obligations imposed by Article 9);

(e) a reduction of a specified amount of benefit by virtue of section 2A of the Administration Act(e) (work-focused interviews);

(f) a reduction in the amount of a jobseeker's allowance payable by virtue of Article 19 of the Jobseekers (Northern Ireland) Order 1995(f) (reduced payments);

(a) Regulation 10A was inserted by regulation 6 of S.R. 1996 No. 111 and amended by regulation 3 of S.R. 1996 No. 181, regulation 2 of S.R. 1996 No. 221 and regulation 2(2) of S.R. 1998 No. 114

(b) Schedule 1 was amended by S.R. 1988 No. 314, S.R. 1989 No. 125, S.R. 1991 Nos. 47 and 337, S.R. 1993 No. 145, S.R. 1994 No. 137, S.R. 1996 No. 73, S.R. 1997 Nos. 22 and 376, S.R. 1999 No. 416 and S.R. 2000 Nos. 38 and 74

(c) Paragraph (2A) was inserted by regulation 2(b) of S.R. 1992 No. 444 and amended by regulation 3 of S.R. 1999 No. 416

(d) S.I. 1991/2628 (N.I. 23)

(e) 1992 c. 8: section 2A was inserted by Article 54 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11))

(f) S.I. 1995/2705 (N.I. 15)

- (g) 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 Article 21 or 22A of the Jobseekers (Northern Ireland) Order 1995^(a) (circumstances in which a jobseeker's allowance is not payable or denial or reduction of joint-claim jobseeker's allowance);
- (h) the suspension of payment of an amount of benefit by virtue of Article 21, 22 or 24 of the Social Security (Northern Ireland) Order 1998 (suspension in prescribed circumstances; suspension for failure to furnish information, etc. or suspension and termination for failure to submit to medical examination) or section 59 of, and paragraphs 13 and 14 of Schedule 7 to, the Child Support, Pensions and Social Security Act (revisions and appeals or suspension in prescribed circumstances and suspension for failure to furnish information, etc.).

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

4. The amount of a discretionary housing payment (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 periodical payments in respect of the dwelling which a person occupies as his home, an amount equal to the amount of the aggregate of the payments specified in regulation 10(1) of the Housing Benefit Regulations^(b) (rent) less the aggregate of the amounts referred to in paragraph (3)^{(b)(c)} of that regulation, calculated on a weekly basis in accordance with regulations 69^(d) and 70 (calculation of weekly amounts and rent and rate-free periods) of those Regulations.

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

5. The Housing Executive may restrict the period for or in respect of which discretionary housing payments may be made to such period as it considers appropriate in a particular class of case or the particular circumstances of a case.

Form, manner and procedure for claims

6.—(1) The Housing Executive may accept a claim for discretionary housing payments—

- (a) in such form and manner as it approves;
- (b) from—
 - (i) a person entitled to housing benefit in a case where the appropriate maximum housing benefit has been restricted under regulation 10A of the Housing Benefit Regulations, or

(a) Article 21 was amended by paragraph 110 of Schedule 6 to the Social Security (Northern Ireland) Order 1998 and Article 22A was inserted by paragraph 14 of Schedule 7 to the Welfare Reform and Pensions (Northern Ireland) Order 1999

(b) Regulation 10(1) was amended by regulation 5 of S.R. 1988 No. 424

(c) Paragraph (3) was substituted by regulation 3(a) of S.R. 2001 No. 79

(d) Regulation 69 was amended by regulation 4 of S.R. 1996 No. 115

(ii) where it appears reasonable in the circumstances of a particular case, a person acting on behalf of a person so entitled.

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

(3) The Housing Executive 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 the Housing Executive 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 Housing Executive within such time as it thinks appropriate.

Reviews

8.—(1) The Housing Executive 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.

(2) Without prejudice to the generality of paragraph (1), the Housing Executive may, on any such review, cancel the making of further such payments and recover a payment already made where it 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.

Cost of discretionary housing payments

9. The total amount of any discretionary housing payments made by the Housing Executive shall not exceed the amount allocated by the Department to the Housing Executive under section 61(1)(a) of the Child Support, Pensions and Social Security Act.

Sealed with the Official Seal of the Department for Social Development
on 18th May 2001.

(L.S.)

John O'Neill
Senior Officer of the Department for
Social Development

EXPLANATORY NOTE

(This note is not part of the Regulations.)

The Discretionary Financial Assistance Regulations (Northern Ireland) 2001 are made by virtue of section 60(1) to (4) of the Child Support, Pensions and Social Security (Northern Ireland) Act 2000 (“the 2000 Act”).

Regulation 1 makes general provision relating to citation, commencement and interpretation.

Regulation 2 provides the Northern Ireland Housing Executive (“the Executive”) 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 the Executive 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 the Executive with discretion to review any decision it has made in respect of discretionary housing payments.

Regulation 9 provides that the total amount paid by way of discretionary housing payments by the Executive shall not exceed the amount allocated to it by the Department for Social Development.

The enabling provisions in the 2000 Act, under which these Regulations are made, were brought into operation, for the purpose only of authorising the making of Regulations, on 22nd November 2000 by virtue of the Child Support, Pensions and Social Security (Act) (Commencement No. 1) Order (Northern Ireland) 2000 (S.R. 2000 No. 358 (C. 16)). As these Regulations are made by virtue of, or are consequential upon, provisions of the 2000 Act and are made before the end of the period of 6 months from the commencement of those provisions, they are, accordingly, exempt, by virtue of section 150(5)(b) of the Social Security Administration (Northern Ireland) Act 1992, from prior reference to the Social Security Advisory Committee.

These Regulations do not impose any charge on business.

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