
Status: Point in time view as at 01/04/2013.

Changes to legislation: The Discretionary Financial Assistance Regulations 2001 is up to date with all changes known to be in force on or before 18 November 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

STATUTORY INSTRUMENTS

2001 No. 1167

SOCIAL SECURITY

The Discretionary Financial Assistance Regulations 2001

<i>Made</i>	- - - -	<i>25th March 2001</i>
<i>Laid before Parliament</i>		<i>28th March 2001</i>
<i>Coming into force</i>	- -	<i>2nd July 2001</i>

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^{M1} and section 189(4) to (6) of the Social Security Administration Act 1992^{M2} after consultation with organisations appearing to him to be representative of the authorities concerned^{M3}, 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^{M4}, hereby makes the following Regulations:

Marginal Citations

- M1** 2000 c. 19. Section 69(7) is an interpretation provision and is cited because of the definition of “prescribed”.
- M2** 1992 c. 5.
- M3** 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.
- M4** 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.

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.

[^{F1}(2) In these Regulations—

“the Housing Benefit Regulations” means the Housing Benefit Regulations 2006; and

“the Housing Benefit (State Pension Credit) Regulations” means the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006.]

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F1 Reg. 1(2) substituted (6.3.2006) by The Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006 (S.I. 2006/217), reg. 1(1), **Sch. 2 para. 18(2)** (with regs. 2, 3, Sch. 3, Sch. 4)

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 ^{F2}...; and
- (b) appear to such an authority to require some further financial assistance (in addition to the benefit ^{F3}... 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—

- ^{F4}(a)
- (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.

F2 Words in reg. 2(1)(a) revoked (1.4.2013) by The Council Tax Benefit Abolition (Consequential Provision) Regulations 2013 (S.I. 2013/458), reg. 1, **Sch. 1**

F3 Words in reg. 2(1)(b) revoked (1.4.2013) by The Council Tax Benefit Abolition (Consequential Provision) Regulations 2013 (S.I. 2013/458), reg. 1, **Sch. 1**

F4 Reg. 2(3)(a) revoked (1.4.2013) by The Council Tax Benefit Abolition (Consequential Provision) Regulations 2013 (S.I. 2013/458), reg. 1, **Sch. 1**

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, 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 [^{F5}Schedule 1 to the Housing Benefit Regulations or Schedule 1 to the Housing Benefit (State Pension Credit) Regulations] (ineligible service charges);
- (b) a liability to meet charges for water, sewerage or allied environmental services;
- (c) a liability to meet council tax payments ^{F6}...;

^{F7}(d)

^{F8}(e)

- (f) a liability to meet the increase in such payment as is referred to in [^{F9}regulation 11(3) of the Housing Benefit Regulations or regulation 11(2) of the Housing Benefit (State Pension Credit) Regulations] ;

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- (g) a reduction of an amount of benefit by virtue of [^{F10}section 46(5)] of the Child Support Act 1991 ^{M5};
- (h) a reduction of a specified amount of benefit by virtue of section 2A of the Social Security Administration Act 1992 ^{M6};
- (i) a reduction in the amount of a jobseeker's allowance payable by virtue of section 17 of the Jobseekers Act 1995 ^{M7};
- (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 [^{F11}regulation 27A of the Jobseeker's Allowance Regulations 1996 or] section 19 or 20A [^{F12}or regulations made under section 17A] of the Jobseekers Act 1995 ^{M8};
- (k) the suspension of payment of an amount of benefit by virtue of section 21, 22 or 24 of the Social Security Act 1998 ^{M9} or section 68 of, and paragraphs 13 and 14 of Schedule 7 to, the Child Support, Pensions and Social Security Act 2000;
- [^{F13}(l) a restriction in relation to the payment of benefit imposed pursuant to ^{F14} ... [^{F15} section [^{F16} 6B] 7, 8 or 9 of the Social Security Fraud Act 2001] (loss of benefit provisions);]
- [^{F17}(m) a reduction of housing benefit imposed pursuant to section 130B of the Social Security Contributions and Benefits Act 1992 (loss of housing benefit following eviction on certain grounds).]
- [^{F18}(n) a reduction in the amount of benefit due to recovery of an overpayment under Part 13 of the Housing Benefit Regulations or Part 12 of the Housing Benefit (State Pension Credit) Regulations, or recovery of excess benefit under Part 11 of the Council Tax Benefit Regulations 2006 or Part 10 of the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006.]

- F5** Words in reg. 3(a) substituted (6.3.2006) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), **Sch. 2 para. 18(3)** (with regs. 2, 3, Sch. 3, Sch. 4)
- F6** Words in reg. 3(c) revoked (1.4.2013) by [The Council Tax Benefit Abolition \(Consequential Provision\) Regulations 2013 \(S.I. 2013/458\)](#), reg. 1, **Sch. 1**
- F7** Reg. 3(d) revoked (1.4.2013) by [The Council Tax Benefit Abolition \(Consequential Provision\) Regulations 2013 \(S.I. 2013/458\)](#), reg. 1, **Sch. 1**
- F8** Reg. 3(e) revoked (1.4.2013) by [The Council Tax Benefit Abolition \(Consequential Provision\) Regulations 2013 \(S.I. 2013/458\)](#), reg. 1, **Sch. 1**
- F9** Words in reg. 3(f) substituted (7.4.2008) by [The Discretionary Financial Assistance \(Amendment\) Regulations 2008 \(S.I. 2008/637\)](#), regs. 1(1), **2(b)**
- F10** Words in reg. 3(g) substituted (7.4.2008) by [The Discretionary Financial Assistance \(Amendment\) Regulations 2008 \(S.I. 2008/637\)](#), regs. 1(1), **2(c)**
- F11** Words in reg. 3(j) inserted (6.4.2010) by [The Jobseeker's Allowance \(Sanctions for Failure to Attend\) Regulations 2010 \(S.I. 2010/509\)](#), regs. 1(2), **4(3)**
- F12** Words in reg. 3(j) inserted (25.4.2011) by [The Jobseeker's Allowance \(Mandatory Work Activity Scheme\) Regulations 2011 \(S.I. 2011/688\)](#), regs. 1, **17(1)(c)**
- F13** Reg. 3(l) added (15.10.2001) by [The Social Security \(Breach of Community Order\) \(Consequential Amendments\) Regulations 2001 \(S.I. 2001/1711\)](#), regs. 1, **2(6)**
- F14** Words in reg. 3(l) omitted (2.4.2010) by virtue of [Welfare Reform Act 2009 \(Section 26\) \(Consequential Amendments\) Regulations 2010 \(S.I. 2010/424\)](#), regs. 1(4), **5**
- F15** Words in reg. 3(l) inserted (1.4.2002) by [Social Security \(Loss of Benefit\) \(Consequential Amendments\) Regulations 2002 \(S.I. 2002/490\)](#), regs. 1(1), **10**
- F16** Word in reg. 3(l) inserted (1.4.2010) by [The Social Security \(Loss of Benefit\) Amendment Regulations 2010 \(S.I. 2010/1160\)](#), regs. 1, **8(2)**

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- F17** Reg. 3(m) added (1.11.2007) by [Housing Benefit \(Loss of Benefit\) \(Pilot Scheme\)\(Supplementary\) Regulations 2007 \(S.I. 2007/2474\)](#), regs. 1(1), **9**
- F18** Reg. 3(n) added (7.4.2008) by [The Discretionary Financial Assistance \(Amendment\) Regulations 2008 \(S.I. 2008/637\)](#), regs. 1(1), **2(d)**

Modifications etc. (not altering text)

- C1** Reg. 3(j) modified (22.11.2010) by [Jobseeker’s Allowance \(Work for Your Benefit Pilot Scheme\) Regulations 2010 \(S.I. 2010/1222\)](#), regs. 1(2), **19**

Marginal Citations

- M5** 1991 c. 48.
- M6** Section 2A was inserted by section 57 of the [Welfare Reform and Pensions Act 1999 \(c. 30\)](#).
- M7** 1995 c. 18. Section 17 was amended by paragraph 11 of Schedule 7 to the Welfare Reform and Pensions Act 1999.
- M8** Section 20A was inserted by paragraph 13 of Schedule 7 to the Welfare Reform and Pensions Act 1999.
- M9** 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—

^{F19}(a) periodical payments in respect of the dwelling which a person occupies as his home^{F20} ... 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^{M10}; or

^{F21}(b)

- F19** Reg. 4(a) substituted (7.4.2008, 6.4.2009 in so far as not already in force) by [The Housing Benefit \(Local Housing Allowance, Miscellaneous and Consequential\) Amendment Regulations 2007 \(S.I. 2007/2870\)](#), regs. 1(2), **5(a)**
- F20** Words in [reg. 4\(a\)](#) revoked (1.4.2013) by [The Council Tax Benefit Abolition \(Consequential Provision\) Regulations 2013 \(S.I. 2013/458\)](#), reg. 1, **Sch. 1**
- F21** [Reg. 4\(b\)](#) revoked (1.4.2013) by [The Council Tax Benefit Abolition \(Consequential Provision\) Regulations 2013 \(S.I. 2013/458\)](#), reg. 1, **Sch. 1**

Marginal Citations

- M10** Relevant amending instruments are [S.I. 1990/546](#), 1996/194 and 2001/487.

[^{F22}Period for, or in respect of which, discretionary housing payments may be made

5.—(1) Subject to paragraph (2), 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.

(2) A relevant authority may make discretionary housing payments to a person only in respect of a period during which that person is or was entitled to housing benefit or ^{F23}....]

- F22** Reg. 5 substituted (7.4.2008) by [The Discretionary Financial Assistance \(Amendment\) Regulations 2008 \(S.I. 2008/637\)](#), regs. 1(1), 3
- F23** Words in reg. 5(2) revoked (1.4.2013) by [The Council Tax Benefit Abolition \(Consequential Provision\) Regulations 2013 \(S.I. 2013/458\)](#), reg. 1, **Sch. 1**

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 ^{F24}...; 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 ^{F25}... 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.

- F24** Words in reg. 6(1)(b)(i) revoked (1.4.2013) by [The Council Tax Benefit Abolition \(Consequential Provision\) Regulations 2013 \(S.I. 2013/458\)](#), reg. 1, **Sch. 1**
- F25** Words in reg. 6(2) revoked (1.4.2013) by [The Council Tax Benefit Abolition \(Consequential Provision\) Regulations 2013 \(S.I. 2013/458\)](#), reg. 1, **Sch. 1**

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.
- (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

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- (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.

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