

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.

▶¹(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.◀

▶²“the Universal Credit Regulations” means the Universal Credit Regulations 2013(e);

“relevant award of universal credit” means an award of universal credit the calculation of which includes an amount under section 11 of the Welfare Reform Act 2012, calculated in accordance with Schedule 4 to the Universal Credit Regulations, or would include such an amount but for paragraph 3(e) of Schedule 1 to those Regulations;

“universal credit” means universal credit under Part 1 of the Welfare Reform Act 2012.◀

¹Para. (2) of reg. 1 substituted by para. 18(2) of Sch. 2 to S.I. 2006/217 as from 6.3.06.

²Defns. of “Universal Credit Regs”, “relevant award of universal credit” & “universal credit” added to reg. 1(2) & words inserted in reg. 2(1)(a) by reg. 2(2) & (3)(a) of S.I. 2013/1139 as from 10.6.13.

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 ▶²a relevant award of universal credit▶³◀; and

(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. 2013/376.

³Words in reg. 2(1)(a) revoked by Schedule 1 of S.I. 2013/458 as from 1.4.13.

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¹Words in reg. 2(1)(b) revoked by Schedule 1 of S.I. 2013/458 as from 1.4.13.

- (b) appear to such an authority to require some further financial assistance (in addition to the benefit ►¹◄ 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—

²Words in regs. 2(3)(a), 3(d) and (e) revoked by Sch. 1 of S.I. 2013/384 as from 1.4.13.

³Words in regs. 2(3)(b) & 3(aa) inserted by regs. 2(3)(b) & (4)(a) of S.I. 2013/1139 as from 10.6.13.

(a) ►²◄

- (b) in the case of a person entitled to housing benefit ►³or a relevant award of universal credit◄ 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, ►⁴or section ►⁵6B,◄ 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—

⁴Words in reg. 3 inserted by reg. 10 of S.I. 2002/490 as from 1.4.02.

⁵Words in reg. 3 inserted by reg. 8(2) of S.I. 2010/1160 as from 1.4.10.

⁶Words substituted in reg. 3(a) by para. 18(3) of Sch. 2 to S.I. 2006/217 as from 6.3.06.

- (a) a liability to meet any of the ineligible service charges specified in ►⁶Schedule 1 to the Housing Benefit Regulations or Schedule 1 to the Housing Benefit (State Pension Credit) Regulations◄;

►³(aa) a liability to meet any payment in respect of service charges other than a payment listed in paragraph 7 of Schedule 1 to the Universal Credit Regulations;◄

- (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) ►²◄

(e) ►²◄

- (f) a liability to meet the increase in such payment as is referred to in ►⁷regulation 11(3) of the Housing Benefit Regulations or regulation 11(2) of the Housing Benefit (State Pension Credit) Regulations◄(a);

(g) a reduction of an amount of benefit by virtue of ►⁷section 46(5)◄ of the Child Support Act 1991(b);

(h) a reduction of a specified amount of benefit by virtue of section 2A of the Social Security Administration Act 1992(c);

(i) a reduction in the amount of a jobseeker's allowance payable by virtue of section 17 of the Jobseekers Act 1995(d);

See reg. 19(1)(c) of S.I. 2010/1222 at page 11.7185 for details of the modifications of reg. 3(j) in certain situations.

- (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 ►⁸regulation 27A of the Jobseeker's Allowance Regulation 1996 or◄ section 19 or 20A ►⁹or regulations made under section 17A◄ of the Jobseekers Act 1995(e);

⁷Words substituted in reg. 3(f) & (g) by reg. 2(a)-(c) of S.I. 2008/637 as from 7.4.08.

⁸Words in reg. 3(j) inserted by reg. 4(3) of S.I. 2010/509 as from 6.4.10.

⁹Words inserted in reg. 3(j) by reg. 17(1)(c) & (2) of S.I. 2011/688 as from 25.4.11.

(a) Relevant amending instrument is S.I. 1991/201.

(b) 1991 c. 48.

(c) Section 2A was inserted by section 57 of the Welfare Reform and Pensions Act 1999 (c. 30).

(d) 1995 c. 18. Section 17 was amended by paragraph 11 of Schedule 7 to the Welfare Reform and Pensions Act 1999.

(e) Section 20A was inserted by paragraph 13 of Schedule 7 to the Welfare Reform and Pensions Act 1999.

- (k) the suspension of payment of an amount of benefit by virtue of section 21, 22 or 24 of the Social Security Act 1998^(a) or section 68 of, and paragraphs 13 and 14 of Schedule 7 to, the Child Support, Pensions and Social Security Act 2000.
- ▶¹(l) a restriction in relation to the payment of benefit imposed pursuant to ▶²▶³section 7, 8 or 9 of the Social Security Fraud Act 2000 (loss of benefit provisions).◀
- ▶⁴(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).◀
- ▶⁵(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.◀
- ▶⁶(o) a reduction in the amount of universal credit due to recovery of an overpayment pursuant to section 71ZB of the Social Security Administration Act 1992^(b);
- (p) a reduction in the amount of universal credit pursuant to a decision made under section 26 or 27 of the Welfare Reform Act 2012.◀

¹Para. (l) inserted in reg. 3 by reg. 2(b) of S.I. 2001/1711 as from 15.10.01.

²Words in reg. 3(1) omitted by reg. 5 of S.I. 2010/424 for relevant effective date. *See* reg. 1(3) of S.I. 2010/424.

³Words inserted in reg. 3(1) by reg. 10 of S.I. 2002/490 as from 1.4.02.

⁴Reg. 3(m) inserted by reg. 9 of S.I. 2007/2474 as from 1.11.07.

⁵Reg. 3(n) inserted & reg. 5 substituted by reg. 2(d) & 3 of S.I. 2008/637 as from 7.4.08.

⁶Sub-para. (o) & (p) in reg. 3, reg. 4 & words in reg. 5(2) added, substituted & inserted by reg. 2(4)(b), 5-7 of S.I. 2013/1139 as from 10.6.13.

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

▶⁶4.—(1) Where a person is entitled to housing benefit the amount of the discretionary housing payment (if calculated as a weekly sum) shall not exceed—

- (a) the aggregate of the payments specified in regulation 12(1) of the Housing Benefit Regulations less the aggregate of the amounts referred to in regulation 12B(2) of those Regulations calculated on a weekly basis in accordance with regulations 80 and 81 of those Regulations; or
- (b) the aggregate of the payments specified in regulation 12(1) of the Housing Benefit (State Pension Credit) Regulations less the aggregate of the amounts referred to in regulation 12B(2) of those Regulations, calculated on a weekly basis in accordance with regulations 61 and 62 of those Regulations.

(2) Where a person is entitled to a relevant award of universal credit the amount of the discretionary housing payment (if calculated as a monthly sum) shall not exceed—

- (a) the amount calculated in accordance with Schedule 4 to the Universal Credit Regulations; or
- (b) where paragraph 3(e) of Schedule 1 to the Universal Credit Regulations applies, the aggregate of the payments referred to in paragraph 3 of Schedule 4 to those Regulations, calculated on a monthly basis.◀

▶⁵Period 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, ▶⁶relevant award of universal credit▶⁷◀.◀

⁷Words in reg. 5(2), revoked by Sch. 1 of S.I. 2013/384 as from 1.4.13.

(a) 1998 c. 14.

(b) Section 71ZB was inserted by section 105 of the Welfare Reform Act 2012.

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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, ¹relevant award of universal credit ~~²~~; or

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

¹Words in reg. 6(1)(b)(i) & (2) inserted by reg. 2(7) of S.I. 2013/1139 as from 10.6.13.

²Words in reg. 6(1) & (2) revoked by Sch. 1 of S.I. 2013/384 as from 1.4.13.

(2) A relevant authority may pay discretionary housing payments to either the person entitled to housing benefit or, ¹relevant award of universal credit ~~²~~, 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.

(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.

