

2008 No. 2265

SOCIAL SECURITY

The Social Fund (Applications and Miscellaneous Provisions) Regulations 2008

<i>Made</i> - - - -	<i>21st August 2008</i>
<i>Laid before Parliament</i>	<i>29th August 2008</i>
<i>Coming into force</i> -	<i>1st October 2008</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred upon him by sections 12, 189(1), (4), (5) and (6) and 191 of the Social Security Administration Act 1992(a).

The Social Security Advisory Committee has agreed that proposals in respect of these Regulations should not be referred to it(b).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Fund (Applications and Miscellaneous Provisions) Regulations 2008 and shall come into force on 1st October 2008.

(2) In these Regulations—

“the Act” means the Social Security Contributions and Benefits Act 1992(c);

“applicant” means the person by or on behalf of whom the application for a section 138(1)(b) payment is made;

“section 138(1)(b) payment” means a payment out of the social fund under section 138(1)(b) of the Act (payment to meet needs other than in prescribed circumstances).

►¹Form and manner in which an application for a community care grant or budgeting loan is to be made

¹Reg. 2 substituted by reg. 2(2) of S.I. 2009/3033 as from 14.12.09.

2.—(1) An application for a payment by way of community care grant or budgeting loan under section 138(1)(b) of the Act must be made in writing—

- (a) on a form approved by the Secretary of State and completed in accordance with the instructions on that form; or
- (b) in such other manner as the Secretary of State may accept as sufficient in any particular case.

(a) 1992 c. 5. Section 189(1) was amended by the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Schedule 3, paragraph 57(2) and by the Tax Credits Act 2002 (c. 21), Schedule 6. Section 189(1), (4), (5) and (6) was amended by the Social Security Act 1998 (c. 14), Schedule 7, paragraph 109. Section 191 is an interpretation provision and is cited because of the meaning given to the word “prescribe”. It has been amended by the Welfare Reform Act 2007, section 40 and Schedule 5, paragraphs 2 and 10.

(b) See sections 170, 172 and 173(1)(b) of the Social Security Administration Act 1992 (c. 5). Amendments not relevant to these Regulations have been made to section 170.

(c) 1992 c. 4. Section 138(1) was substituted by section 70 of the Social Security Act 1998 (c. 14).

Form and manner in which an application for a crisis loan is to be made

2A.—(1) An application for a payment by way of crisis loan under section 138(1)(b) of the Act need not be made in writing unless the Secretary of State so requires in any particular case.

(2) Where an application for a crisis loan is required to be made in writing it must be made—

- (a) on a form approved by the Secretary of State and completed in accordance with the instructions on that form; or
- (b) in such other manner as the Secretary of State may accept as sufficient in any particular case;

and the provisions of regulation 3 will then apply to that application as they apply to an application for a community care grant or budgeting loan.

(3) The Secretary of State may require a person who wishes to apply for a crisis loan in respect of living expenses to attend for interview at an office of the Department for Work and Pensions and to make the application to the interviewing officer.

(4) Where someone (“B”) is making the application on behalf of another person (“A”) the Secretary of State may require that B attend the interview instead of, or together with, A in order to make the application.

(5) The Secretary of State must give the application reasonable notice of the date, time and place at which such an interview is to take place. ◀

Written applications

3.—(1) This regulation applies to applications for section 138(1)(b) payments which must be made in writing.

(2) Forms of application for section 138(1)(b) payments are to be supplied, without charge, by persons appointed or authorised for that purpose by the Secretary of State.

(3) Every application must be delivered or sent to an office of the Department for Work and Pensions.

(4) Where the applicant has not provided sufficient particulars to enable any material question to be determined, the Secretary of State may request him to provide (in writing, by attendance at an office of the Department for Work and Pensions or by other reasonable means) such further particulars as may reasonably be required to determine the application.

(5) Where an application has been submitted using an approved form and it appears to the Secretary of State that the application has not been completed in accordance with the instructions given on the form, the Secretary of State may return the form to the applicant for proper completion.

Crisis loan application not made in writing

4.—(1) This regulation applies to an application for a crisis loan which is not made in writing.

(2) Where the applicant has not provided sufficient particulars to enable any material question to be determined, the Secretary of State may request him to provide such further particulars as may reasonably be required to determine the application.

Consent where application is made on behalf of someone else

5.—(1) Where an application for a section 138(1)(b) payment is to be made on behalf of one person (“A”) by another person (“B”), A must give his consent to the application being made on his behalf unless B is a person appointed by the Secretary

of State under regulation 33(1) of the Social Security (Claims and Payments) Regulations 1987(a) to act on A's behalf.

(2) Consent must be in writing except where the application is for a crisis loan which ¹made by telephone◀.

¹Words in regs. 5(2) & (6)(2)(a) & 4(a) substituted by regs. 2(3) & (4) of S.I. 2009/3033 as from 14.12.09.

Time at which an application is to be treated as made

6.—(1) This regulation specifies when an application for a section 138(1)(b) payment is to be treated as made.

(2) In the case of—

- (a) an application which meets the requirements of ¹regulation 2 or 2A(2)◀; or
- (b) an application for a crisis loan not made in writing in respect of which the Secretary of State does not request further particulars,

it is the date on which the application is received in an office of the Department for Work and Pensions.

(3) In the case of an application to which paragraph (4) applies, it is the date on which the application was first received in an office of the Department for Work and Pensions.

(4) This paragraph applies in the case of—

- (a) an application in writing which does not meet the requirements of ¹regulation 2 or 2A(2)◀, or
- (b) an application for a crisis loan not made in writing in respect of which the Secretary of State requests further particulars,

where the applicant complies with the requirements of the Secretary of State under regulation 3(4) or (5) or 4(2).

Conditions to be satisfied before payment of a repayable social fund award

7.—(1) In this regulation “section 139 notification” means the notification given by the Secretary of State, under section 139(4) of the Act, of the terms and conditions on which an award of a crisis loan or budgeting loan is repayable.

(2) ²◀, before an award is paid the applicant must provide satisfactory evidence of his identity.

²Words in reg. 7(2) & (4) substituted by reg. 2(4) & (5) of S.I. 2009/3033 as from 14.12.09.

(3) Before an award of a crisis loan or a budgeting loan is paid, the applicant must inform the Secretary of State that he agrees to the terms and conditions contained in the section 139 notification, and (subject to paragraph (4)) he must do so in writing.

(4) In the case of a crisis loan, the applicant need not inform the Secretary of State in writing if the application for the loan was ²made by telephone◀.

(5) The applicant must inform the Secretary of State of his agreement to the terms and conditions contained in the section 139 notification within the period of 14 days beginning with the date on which the Secretary of State notified them to the applicant.

(6) The Secretary of State may extend the time specified in paragraph (5) where he is satisfied that special reasons apply, even if it has already expired.

Circumstances in which an award is to be extinguished

8. An award of a section 138(1)(b) payment becomes extinguished where—

- (a) the applicant fails to satisfy the condition in paragraph (3) of regulation 7 within the time referred to in paragraph (5) or (6) of that regulation; or

(a) S.I. 1987/1968.

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- (b) in a case where the Secretary of State has issued an instrument of payment in respect of the award, that instrument is not presented for payment within the period of 12 months beginning with the date of its issue.

[Regulation 9 revokes S.I.s 1988/524 and 1990/1788.]

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

21st August 2008

James Plaskitt
Parliamentary Under-Secretary of State,
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations consolidate and recast, with the amendments referred to below, the provisions of the Social Fund (Applications) Regulations 1988 (“the 1988 Regulations”) and the Social Fund (Miscellaneous Provisions) Regulations 1990 (“the 1990 Regulations”).

Regulations 2 to 4 set out the manner and form in which applications are to be made for payments by way of community care grant, crisis loan or budgeting loan out of the social fund under section 138(1)(b) the Social Security Contributions and Benefits Act 1992. Under the 1988 Regulations, where a person applied for a crisis loan by telephone and a determination to make an award was given subsequently, the applicant was required to confirm in writing that there had been no changes to the particulars supporting the application and that those particulars were correct. The requirement has been removed.

Regulation 5 provides for a person’s consent to be given where someone else is making the application on his behalf.

Regulation 6 sets out when an application for a community care grant, crisis loan or budgeting loan is treated as having been made.

Regulation 7 specifies conditions which must be satisfied before payments of crisis loans or budgeting loans are made. The change from the 1990 Regulations is that, in the case of a crisis loan, the applicant need not inform the Secretary of State in writing that he or she agrees to the repayment terms and conditions if the application for the loan was not made in writing.

Regulation 8 specifies circumstances in which an award of a community care grant, crisis loan or budgeting loan becomes extinguished.

Regulation 9 revokes the 1988 and 1990 Regulations and a Statutory Instrument which amended the 1988 Regulations.

A full impact assessment has not been produced for this instrument as it has no impact on the private or voluntary sectors.