

2004 No.2329

SOCIAL SECURITY

**The Discretionary Housing Payments (Grants) Amendment
Order 2004**

<i>Made</i> - - - -	<i>7th September 2004</i>
<i>Laid before Parliament</i>	<i>8th September 2004</i>
<i>Coming into force</i> - -	<i>29th September 2004</i>

The Secretary of State for Work and Pensions, with the consent of the Treasury^(a) in exercise of the powers conferred upon him by sections 140B(1), 140C(1), (2) and (4) and 189(4) to (6) of the Social Security Administration Act 1992^(b) and section 70 of the Child Support, Pensions and Social Security Act 2000^(c) and of all other powers enabling him in that behalf, after consultation with organisations appearing to him to be representative of the authorities concerned^(d), hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Discretionary Housing Payments (Grants) Amendment Order 2004 and shall come into force on 29th September 2004.

Amendment of the Discretionary Housing Payments (Grants) Amendment Order 2001

2.—(1) The Discretionary Housing Payments (Grants) Order 2001^(e) shall be amended in accordance with the following provisions of this article.

(2) In article 1(2) (interpretation), at the appropriate places in the alphabetical order, insert—

““final claim” means any claim which falls to be made in accordance with article 3(2)(g);”

““non-audit claim” means any claim made by a relevant authority in England and Wales under article 3(2)(f) where the total amount of the claim in respect of the relevant year is less than £50,000;”.

(3) In article 3(2) (claims), at the beginning of sub-paragraph (g), insert the words “except where the claim is a non-audit claim,”.

(4) For article 4 (records and information provisions), substitute—

(a) See section 189(8) of the Social Security Administration Act 1992 (c.5)

(b) 1992 c.5. Sections 140B and 140C were inserted with savings by paragraph 4 of Schedule 12 to the Housing Act 1996, (c. 52). Relevant amendments were made to section 140B(1) by paragraph 7 of Schedule 1 to the Social Security Administration (Fraud) Act 1997 (c.47).

(c) 2000 c.19. Relevant amendments were made to section 70(2)(a) by Part 1 of Schedule 8 to the Local Government Act 2003 (c.26).

(d) See section 176(1) of the Social Security Administration Act 1992.

(e) S.I. 2001/ 2340.

“Record and information provisions

- 4.—(1) A relevant authority shall, in relation to any relevant year—
- (a) keep such records as are likely to be required for the purpose described in paragraph (2), should there be a final claim by that authority in respect of that year; and
 - (b) where there is such a claim, on request—
 - (i) produce such of those records, and
 - (ii) provide such other information,as the auditor may require for the purpose described in paragraph (2).
- (2) The purpose referred to in paragraph (1) is the purpose of satisfying the auditor that—
- (a) the entries on the claim form are correctly stated; and
 - (b) expenditure on which the claim is based has been properly incurred,
- so that a final claim may be made by the date specified in article 3(2)(g).
- (3) The relevant authority shall, in relation to any relevant year—
- (a) keep such records as are likely, in connection with any claim the authority may make in respect of that year, to be required for the purpose described in sub-paragraph (b); and
 - (b) on request—
 - (i) produce in time such of those records, and
 - (ii) provide in time such other information,as the Secretary of State may require for the purpose of satisfying himself that the claim is accurate and properly calculated.
- (4) In paragraph (3), “in time” means no later than the end of the period of six weeks beginning with the day on which the request referred to in that paragraph is sent to the relevant authority.”.
- (5) For article 6 (payment), substitute—

“Payment

6. Subject to article 6A, the Secretary of State may make payments by way of instalments by reference to claims submitted in accordance with article 3 but no final payment shall be made until –
- (a) in the case of a non-audit claim, the Secretary of State is satisfied that no request for relevant information made in accordance with article 4(3) is outstanding; or
 - (b) in the case of a final claim—
 - (i) the relevant authority’s auditor has certified on the claim form that the entries on the claim referred to in article 3(2)(c) and (g) are fairly stated;
 - (ii) the final claim is audited; and
 - (iii) the Secretary of State is satisfied that no request for relevant information made in accordance with article 4 is outstanding.”.
- (6) After that article, insert—

“Estimating amounts

6A.—(1) Where, in relation to any relevant year, a relevant authority has not, before the time specified in article 3, 4 or 5, as the case may be, complied with any condition with which it is required under that article to comply, the Secretary of State may estimate the amount of any payment, including any payment by instalments, payable to that authority

in accordance with section 70 of the Act in respect of that year, and may employ for that purpose such criteria as he considers relevant.”.

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

6th September 2004

Chris Pond
Parliamentary Under-Secretary of State,
Department for Work and Pensions

We consent

7th September 2004

Joan Ryan
Nick Ainger
Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Discretionary Housing Payments (Grants) Order 2001 (“the 2001 Order”), which sets out the procedure by which the Secretary of State will make payments to local authorities towards the cost of discretionary housing payments in accordance with section 70 of the Child Support, Pensions and Social Security Act 2000.

Article 2 (2) and (3) amends the 2001 Order to provide that a claim by an authority in England and Wales in respect of a total amount of less than £50,000 for any year need not be audited by the authority’s auditor and article 2(5) makes associated amendments in the provisions governing payments under that section 70. Article 2(4) substitutes a new article 4 in that Order in relation to an authority’s obligation to keep records and provide information in connection with claims (in particular to specify time limits for the provision of certain information), and article 2(6) inserts a new article 6A in the 2001 Order to enable the Secretary of State to estimate the amount of payments due, where the authority has failed to comply within the specified time with certain conditions imposed by that Order.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.

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