

**EXPLANATORY MEMORANDUM TO
THE DISABLED FACILITIES GRANTS (MAXIMUM AMOUNTS AND ADDITIONAL
PURPOSES) (ENGLAND) ORDER 2008**

2008 No. 1189

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government (“the Department”) and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This instrument sets at £30,000 the maximum amount of facilities grant that a local housing authority may be required to pay towards the cost of works required for the provision of facilities in dwellings or buildings in England for disabled persons. It also specifies additional purposes for which an application for a grant must be approved, subject to the criteria for approval of such grants that are set out in Chapter 1 of Part 1 of the Housing Grants, Construction and Regeneration Act 1996 (“the Act”) being met.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Background

4.1 Section 1 of the Housing Grants, Construction and Regeneration Act 1996 provides that grants are available from local housing authorities in accordance with Chapter 1 of Part 1 of that Act. Grants may be available towards the cost of works required for the provision of facilities for disabled persons in dwellings, in qualifying houseboats and caravans, and in the common parts of buildings containing one or more flats.

4.2 Section 33(1) of the Act enables the Secretary of State, in England, if he thinks fit, to specify by order a maximum amount or a formula for calculating a maximum amount for grant which a local housing authority may pay in respect of an application for a grant. By section 33(2) such an order may make different provision for different purposes. By section 33(4) a local housing authority may not pay an amount of grant in excess of a specified maximum amount.

4.3 A maximum amount was first specified in the Disabled Facilities Grants and Home Repair Assistance (Maximum Amounts) Order 1996 (S.I. No. 1996/2888). The maximum amount was increased by the Disabled Facilities Grants and Home Repair Assistance (Maximum Amounts) (Amendment No. 2) (England) Order 2001 to £25,000 in respect of dwellings or buildings in England. This instrument now sets the maximum limit at £30,000 in relation to England and, in consequence, provides for the provisions dealing with the maximum amount in S.I. No 1996/2888 to cease to effect as to England.

4.4 Section 23 of the Act lists the purposes for which a grant must or may be approved, subject to the provisions of Chapter 1 of Part 1. Section 23(1)(l) enables the Secretary of State to specify other purposes by order. This is the first time that this power has been exercised.

5. Territorial Extent and Application

5.1 This instrument applies to England.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The policy objective of Chapter 1 of Part 1 of the Act is to enable disabled people and people with mobility issues to live independently in their home through the provision of adaptations to their home. The previous maximum grant limit of £25,000, set in respect of England, has been insufficient to meet the full cost of all the adaptations considered to be necessary in respect of about 3% of grant applications. Raising the grant limit addresses the increased costs of carrying out the relevant works. Increasing the ceiling will have an immediate benefit to families with children. Adaptations for children tend to be the most costly and so this change will benefit these families the most. This Order therefore increases the maximum grant to £30,000.

7.2 The Department also considers that access to a garden or outside area will often significantly improve a disabled person's quality of life. While the Act contains a list of purposes for which grant must be given, subject to the provisions of Chapter 1 of Part 1, including for the purpose of facilitating access to and from the disabled person's dwelling, there is no provision for grant to be made available for enabling access to a garden. The policy, therefore is to require local housing authorities to pay grant in respect of applications for the purpose of a disabled person gaining access to the garden, if the provisions of Chapter 1 of Part 1 are satisfied.

7.3 The Act provides that a local housing authority may, with the consent of the applicant, treat an application as varied so that the relevant works are limited to such work as the authority considers necessary for the stated purpose. The local housing authority will be able to exercise similar discretion when considering the works that will be necessary for the purpose of allowing access to the garden. The Department envisages local housing authorities only providing such grant as is sufficient for reasonable access to the garden, yard and outhouses and not being required to pay for works to enable access to the whole garden, or to every outhouse where it is clear that the disabled person does not need such access.

7.3 These two proposals were put forward as part of a public consultation in January to April 2007 and both received strong support. 99% of respondents supported the proposal to increase the maximum grant limit, with 54% specifically supporting increasing the limit to £30,000. 87% of respondents who commented on the garden access proposal were in support of it. The funding for the Disabled Facilities Grant programme has increased and will cover the estimated costs of these changes. These

changes are part of a wider package of proposals to modernise the programme. Further information on the programme review, consultation and package of change can be found on the Department's website at:

<http://www.communities.gov.uk/housing/housingmanagementcare/housingadaptations/>

8. Impact

8.1 An impact assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 The impact on the public sector is estimated to be £7 million.

9. Contact

Dylan Grimes at the Department for Communities and Local Government Tel: 020 7944 6544 or e-mail: Dylan.Grimes@communities.gsi.gov.uk can answer any queries regarding the instrument.