
STATUTORY INSTRUMENTS

2008 No. 637

SOCIAL SECURITY

**The Discretionary Financial Assistance
(Amendment) Regulations 2008**

<i>Made</i>	- - - -	<i>6th March 2008</i>
<i>Laid before Parliament</i>		<i>12th March 2008</i>
<i>Coming into force</i>	- -	<i>7th April 2008</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by section 69(1), (2) and (7) of the Child Support, Pensions and Social Security Act 2000⁽¹⁾ and section 189(4) to (6) of the Social Security Administration Act 1992⁽²⁾.

In accordance with section 176(1) of the Social Security Administration Act 1992, the Secretary of State has consulted with organisations appearing to be representative of the authorities concerned.

The Social Security Advisory Committee has agreed that the proposals in respect of these Regulations should not be referred to it⁽³⁾.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Discretionary Financial Assistance (Amendment) Regulations 2008 and shall come into force on 7th April 2008.

(2) In these Regulations, “the Regulations” means the Discretionary Financial Assistance Regulations 2001⁽⁴⁾.

Amendment of regulation 3

2. Regulation 3 of the Regulations (circumstances in which discretionary housing payments may be made) shall be amended as follows—

- (a) in paragraph (d) for “regulation 10 of the Housing Benefit Regulations” substitute “regulation 12 of the Housing Benefit Regulations or regulation 12 of the Housing Benefit (State Pension Credit) Regulations”;

(1) 2000 c.19. Section 69(7) is cited because of the meaning ascribed to the word “prescribed”.

(2) 1992 c.5.

(3) See sections 172(1) and 173(1)(b) of the Social Security Administration Act 1992 (c.5). Section 73 of the Child Support, Pensions and Social Security Act 2000 (c.19) added paragraph (af) to section 170(5) which defines “relevant enactments” in respect of which regulations must normally be referred to the Committee.

(4) S.I. 2001/1167 as amended by S.I.s 2001/1711, 2002/490, 2006/217 and 2007/2474.

- (b) in paragraph (f) for “regulation 8(2A) of the Housing Benefit Regulations” substitute “regulation 11(3) of the Housing Benefit Regulations or regulation 11(2) of the Housing Benefit (State Pension Credit) Regulations”;
- (c) in paragraph (g) for “section 46(11) substitute “section 46(5)”;
- (d) after paragraph (m) add—
 - “(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.”.

Substitution of regulation 5

3. For regulation 5 of the Regulations (period for, or in respect of which, discretionary housing payments may be made) substitute—

“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 council tax benefit or to both.”.

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

6th March 2008

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

This instrument makes various amendments to the Discretionary Financial Assistance Regulations 2001 (“the Regulations”).

Regulation 2 amends the references in regulation 3 of the Regulations in line with the Housing Benefit Regulations 2006 and the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006. It also adds a paragraph to regulation 3 of the Regulations precluding a discretionary housing payment being paid to meet a need for financial assistance which arises because of reductions in housing benefit to recover overpayments or reductions in council tax benefit to recover excess benefit.

Regulation 3 substitutes regulation 5 of the Regulations so that discretionary housing payments may only be made in respect of a period where the person is or was entitled to housing benefit, council tax benefit or both.

A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.