



Social Security (Scotland) Act 2018

2018 asp 9

PART 5

DISCRETIONARY HOUSING PAYMENTS

88 Local authorities' power to make payments

- (1) A local authority has power to give financial assistance to a qualifying individual to meet, or help towards meeting, the individual's housing costs.
- (2) In subsection (1), “qualifying individual” means an individual who—
 - (a) is entitled to—
 - (i) housing benefit, or
 - (ii) an award of universal credit which includes an amount for rent, and
 - (b) appears to the authority to need financial assistance under subsection (1) (in addition to any assistance of a kind mentioned in paragraph (a) which the individual receives) in order to meet housing costs.
- (3) For the purposes of subsection (2)(a)—
 - (a) “housing benefit” means housing benefit provided by virtue of a scheme under section 123 of the Social Security Contributions and Benefits Act 1992,
 - (b) an award of universal credit includes an amount for rent if—
 - (i) the calculation of the award includes an amount under section 11 of the Welfare Reform Act 2012, and
 - (ii) that amount is included (wholly or partly) in respect of a liability to make payments within the meaning of paragraph 2 of schedule 1 of the [Universal Credit Regulations 2013 \(S.I. 2013/376\)](#).
- (4) Financial assistance under this section may be given to an individual by way of—
 - (a) payment to the individual,
 - (b) payment to another person to meet, or contribute towards meeting, any liability the individual has to that person,
 - (c) deduction from any liability the individual has to the authority giving the assistance which is connected to housing costs,
 - (d) any combination of the ways mentioned in the preceding paragraphs.

89 Restrictions on power to make payments

- (1) Financial assistance may not be given under section 88 by way of a loan.
- (2) Financial assistance may not be given under section 88 where the need for the assistance arises solely from reduction, non-payability or suspension of a reserved benefit as a result of an individual's conduct (for example, non-compliance with work-related requirements relating to the benefit).
- (3) But subsection (2) does not prevent assistance from being given where the need for the assistance in question—
 - (a) also arises from some exceptional event or exceptional circumstances, and
 - (b) is immediate.
- (4) In subsection (2), “reserved benefit” means a benefit which is to any extent a reserved matter within the meaning of schedule 5 of the Scotland Act 1998.

90 Local authorities' duty to provide information about payments

Each local authority must make available to the public resident in its area information about—

- (a) how to apply to the authority for financial assistance under section 88,
- (b) which housing costs the authority gives assistance in relation to,
- (c) the rules the authority applies in deciding—
 - (i) whether to give someone assistance,
 - (ii) the amount of assistance to give, and
 - (iii) what period to give assistance for,
- (d) how to apply for a review challenging a decision by the authority—
 - (i) to refuse to give assistance,
 - (ii) as to the amount of assistance it will give, or
 - (iii) as to the period for which it will give assistance.

91 Guidance

- (1) Local authorities must have regard to any guidance issued by the Scottish Ministers in connection with the exercise of the power conferred by section 88.
- (2) Guidance under subsection (1) may, in particular, deal with—
 - (a) the rules which authorities are to apply in deciding—
 - (i) whether to give someone financial assistance,
 - (ii) the amount of assistance to give, and
 - (iii) what period to give assistance for,
 - (b) the form of applications for—
 - (i) assistance, and
 - (ii) review of authorities' decisions about the giving of assistance,
 - (c) the processes which authorities are to follow in—
 - (i) determining applications for assistance and review, and
 - (ii) deciding whether to stop giving someone assistance,

Status: This is the original version (as it was originally enacted).

- (d) the circumstances in which authorities should, and should not, seek to recover the value of assistance given in error or following a breach of any of the conditions under which it was given.
- (3) Guidance under subsection (1) may be addressed to—
 - (a) an authority, or more than one authority, identified in the guidance, or
 - (b) all authorities.
- (4) Before issuing guidance under subsection (1), the Scottish Ministers must consult such body representing authorities as the Ministers think fit.
- (5) As soon as reasonably practicable after issuing guidance under subsection (1), the Scottish Ministers must lay a copy of the guidance before the Scottish Parliament.
- (6) The Scottish Ministers must make guidance issued under subsection (1) publicly available.
- (7) The power to issue guidance under subsection (1) includes the power to—
 - (a) issue guidance which varies guidance issued under that subsection, and
 - (b) revoke guidance issued under that subsection.

92 Local authorities need not make payments if not funded

- (1) The Scottish Ministers may make grants to local authorities to fund the giving of financial assistance under section 88.
- (2) Monies granted to an authority under subsection (1) may be spent only on giving financial assistance under section 88.
- (3) If an authority has spent all monies granted to it under subsection (1), the authority may refuse to consider any application for financial assistance under section 88.
- (4) If, by virtue of subsection (3), an authority is refusing to consider applications, it need not comply with section 90.
- (5) For the avoidance of doubt, subsection (3) does not prevent an authority from considering applications or giving financial assistance under section 88 should it choose to.

93 Power to modify section 88

- (1) The Scottish Ministers may by regulations make whatever amendment to section 88 they think appropriate in consequence of—
 - (a) an enactment mentioned in that section being amended, repealed or revoked, or
 - (b) the creation of a reserved benefit payable in respect of a liability to make rent payments.
- (2) Expressions used in subsection (1)(b) have the same meaning as they have for the purposes of exception 6 in Section F1 of Part 2 of schedule 5 of the Scotland Act 1998.