

2024 No. 58

SOCIAL SECURITY

**The Discretionary Financial Assistance (Scotland) Revocation
Regulations 2024**

Made - - - - *20th February 2024*

Laid before the Scottish Parliament *22nd February 2024*

Coming into force - - *1st April 2024*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 69(1) to (5) of the Child Support, Pensions and Social Security Act 2000(a), section 189(4) to (6) of the Social Security Administration Act 1992(b), and all other powers enabling them to do so.

In accordance with section 176(1)(aa) of the Social Security Administration Act 1992(c), the Scottish Ministers have consulted with organisations appearing to the Scottish Ministers to be representative of the authorities concerned.

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- (a) 2000 c. 19 (“the 2000 Act”). Section 69(7) is an interpretation provision and contains a definition of “prescribed”. The function of making regulations to prescribe the circumstances in which a person may receive financial assistance to meet or help meet housing costs, for the purpose of payments under section 88 of the Social Security (Scotland) Act 2018 (asp 9) (“the 2018 Act”), transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46) (“the 1998 Act”) as read with sections 25 and 32 of the Scotland Act 2016 (c. 11) (“the 2016 Act”). Section 25 of the 2016 Act inserted exceptions into the social security reservation in Head F1 of Part 2 of schedule 5 of the 1998 Act relating to financial assistance to a person who is entitled to housing benefit or any other reserved benefit payable in respect of a liability to make rent payments. Section 32 provides the meaning of “pre-commencement enactment” in this context. Sections 25 and 32 were commenced on 1 April and 5 September, respectively, 2017 by S.I. 2016/759. Accordingly, in so far as the functions under section 69 of the 2000 Act are exercisable within devolved competence, they are now exercisable by the Scottish Ministers instead of by the Secretary of State.
- (b) 1992 c. 5. Section 189(4) was amended by section 86, paragraph 109(c) of schedule 7, and schedule 8 of the Social Security Act 1998 (c. 14) and article 4 and Part 1 of the schedule of S.I. 2013/252. Section 189(5) was amended by section 86, paragraph 109(d) of schedule 7 and schedule 8 of the Social Security Act 1998 (c. 14). Section 189(6) was amended by article 1 and Part 1 of the schedule of S.I. 2013/252. The function of making regulations to prescribe the circumstances in which a person may receive financial assistance to meet or help meet housing costs, for the purpose of payments under section 88 of the 2018 Act transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act as read with sections 25 and 32 of the 2016 Act. Section 25 of the 2016 Act inserted exceptions into the social security reservation in Head F1 of part 2 of schedule 5 of the 1998 Act relating to financial assistance to a person who is entitled to housing benefit or any other reserved benefit payable in respect of a liability to make rent payments. Section 32 provides the meaning of “pre-commencement enactment” in this context. Sections 25 and 32 were commenced on 1 April and 5 September, respectively, 2017 by S.I. 2016/759. Accordingly, in so far as the functions under section 69 of the 2000 Act are exercisable within devolved competence, they are now exercisable by the Scottish Ministers instead of by the Secretary of State. Section 69(4) of the 2000 Act provides that subsections 189(4) to (6) of the Social Security Administration Act 1992 (“the 1992 Act”) apply in relation to the powers to make regulations under the 2000 Act. Accordingly, in so far as the functions of making provision for different cases and areas, ancillary provision, and the power to exercise discretion under section 189(4) to (6) of the 1992 Act are exercisable by the Secretary of State, they are now exercisable by the Scottish Ministers.
- (c) Section 176(1)(aa) was inserted by section 69(6) of the Child Support, Pensions and Social Security Act 2000 (c. 19).

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Discretionary Financial Assistance (Scotland) Revocation Regulations 2024 and come into force on 1 April 2024.

(2) These Regulations extend to Scotland only.

Revocation of the Discretionary Financial Assistance Regulations 2001

2. The Discretionary Financial Assistance Regulations 2001(a) are revoked.

SHIRLEY-ANNE SOMERVILLE
A member of the Scottish Government

St Andrew's House,
Edinburgh
20th February 2024

(a) S.I. 2001/1167, as amended by S.I. 2001/1711, S.I. 2006/217, S.I. 2007/2474, S.I. 2008/637, S.I. 2010/424, S.I. 2010/509, S.I. 2010/1160, S.I. 2011/688, S.I. 2013/458, S.I. 2013/1139 and S.I. 2018/65.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke the Discretionary Financial Assistance Regulations 2001 (“the 2001 Regulations”), as they apply in Scotland. These Regulations do not affect the operation of the 2001 Regulations in England and Wales. The 2001 Regulations provide relevant authorities with a power to make discretionary housing payments by way of financial assistance and regulate the amount, manner, and procedure of this assistance.

Regulation 2 revokes the 2001 Regulations with effect from 1 April 2024. Relevant authorities will make discretionary housing payments in Scotland on and after 1 April 2024 by virtue of Part 5 of the Social Security (Scotland) Act 2018, which is to be commenced on that date by the Social Security (Scotland) Act 2018 (Commencement No. 10 and Transitional Provision) Regulations 2024.

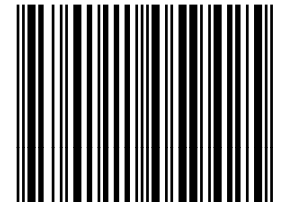
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