

**Explanatory Memorandum for the
Discretionary Housing Payments (Grants) Amendment Order 2004 No.2329**

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty

2. Description

2.1 This Order amends the Discretionary Housing Payments (Grants) Order 2001 (“the DHP Grants Order”) to provide that a claim by a local authority in England and Wales for less than £50,000 need not be audited. It also allows the Secretary of State to estimate the amount of payments to be made to a local authority when for example, a local authority fails to submit a claim.

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

3.1 None.

4. Legislative Background

4.1 Discretionary Housing Payments (“DHPs”) came into being on 2nd July 2001 and allow local authorities the discretion to make payments to Housing Benefit and Council Tax Benefit recipients who require further financial assistance with their housing costs. The Discretionary Financial Assistance Regulations 2001 set out how these arrangements operate.

4.2 The financial aspects of these arrangements are covered in separate legislation. Each authority receives a contribution from the Government towards its DHP expenditure, and there is an overall upper limit of 2.5x this contribution. The DHP Grants Order sets out the procedures by which the Secretary of State makes payments to local authorities towards DHPs under section 70 of the Child Support, Pensions and Social Security Act 2000. It covers such issues as the procedure for making claims, record keeping/information requirements, audit requirements and grant paying provisions.

4.3 Since April 2004, the Audit Commission have decided that they will no longer audit claims for less than £50,000. Hence there is a need to amend the DHP Grants Order to reflect this fact. The proposed Discretionary Housing Payments (Grants) Amendment Order 2004;

* removes the requirement on local authorities to have claims for grants in respect of DHPs audited where the local authority is one in England and Wales and is claiming less than £50,000 annually;

- * clarifies the obligations on local authorities for keeping records and producing information to auditors and to the Secretary of State in relation to DHP claims;
- * imposes a time limit of 6 weeks on local authorities for producing information and / or records to the Secretary of State, where he requests those items for the purpose of satisfying himself that the claim is accurate and properly calculated;
- * allows the Secretary of State to estimate the amount of payments to be made to a local authority in respect of their DHPs, where the local authority has not complied with conditions set out in the DHP Grants Order, such as submitting claims by the appropriate dates, or where the local authority has failed to provide information or records to the Secretary of State within the time limits set by that Order as amended.

5. Extent

- 5.1 This Order extends to Great Britain. The removal of the obligation to submit audited annual claims for DHPs of less than £50,000, however, only applies to local authorities in England and Wales. The situation in Scotland has not changed so Scottish authorities will still have to submit audited claims for DHPs by 30th September regardless of the amount .

6. European Convention on Human Rights

- 6.1 Not applicable.

7. Policy Background

- 7.1 The DHP arrangements came into being on 2nd July 2001; they gave local authorities the discretion to make payments to Housing Benefit and Council Tax Benefit recipients requiring further financial assistance with their rent or council tax. Such payments are stand-alone and not part of the Housing Benefit or Council Tax Benefit schemes.
- 7.2 The financial aspects of the arrangements are covered in separate legislation. An overall limit is set on the total amount that authorities are able to spend on DHPs in any one year, and the Government contributes towards this limit. The DHP Grants Order sets out the financial arrangements for DHPs, and covers such issues as how authorities should submit claims, record keeping, audit requirements and payment of the contribution. It also sets the overall limit on expenditure at 2.5x the contribution.
- 7.3 Under the procedures covered in the DHP Grants Order, a local authority must, by 30th June, submit a claim showing how much it has paid by way of DHPs for the previous year (ie the year ending 31st March) – this is known as the pre-audit claim. They must also, by 30th September, send in a claim for that previous year, which has been certified by their auditor – in other words, an audited claim.

- 7.4 In April 2004, the Audit Commission decided, as part of their strategy to rationalise the regulatory framework, maximise the benefits to the public and minimise the costs of regulation and compliance, that it would no longer certify grant claims below £50,000 under the audit process. These new arrangements only apply to grant paying bodies in England and Wales, and include claims for DHPs.
- 7.5 This draft amendment Order reflects the correct position by removing the requirement to submit an audited DHP claim for English and Welsh local authorities where the claim made annually is for less than £50,000. This draft Order also makes associated minor amendments to the provisions covering claims for payment, so that final payments can be made where the total grant claimed is less than £50,000, without awaiting an audited claim. It also allows the Secretary of State to estimate the amount of payments due in certain circumstances.
- 7.6 We have consulted the Local Authority Associations on these amendments. The amendments were supported.

8. Impact

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

9. Contact

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Can answer any queries regarding this instrument.