POLICY NOTE

THE DISCRETIONARY FINANCIAL ASSISTANCE (SCOTLAND) REVOCATION REGULATIONS 2024

SSI 2024/58

The above instrument was made in exercise of the powers conferred by section 69(1) to (5) of the Child Support, Pensions and Social Security Act 2000, section 189(4) to (6) of the Social Security Administration Act 1992, and all other powers enabling them to do so. The instrument is subject to negative procedure.

Summary Box

These regulations are necessary to revoke the Discretionary Financial Assistance Regulations 2001, insofar as they relate to Scotland. This is one of two SSIs to bring the discretionary housing payments (DHP) scheme under the control of Scottish Ministers. Doing so will allow Scottish Ministers to issue Scotland-specific statutory DHP guidance, thereby allowing the scheme to be reframed for a Scottish context.

Policy Objectives

Background

Responsibility for the Discretionary Housing Payment (DHP) scheme was devolved to the Scottish Ministers in 2017. Section 91 of Part 5 of the Social Security (Scotland) 2018 Act (the "2018 Act") was partially commenced on 1st April 2020 by regulation 2(2) of S.S.I. 2020/75 to allow consultation on a Scottish DHP Guidance manual.

At present local authorities can consult a DWP-issued guidance manual with further instructions provided in an interim guidance note setting out the Scottish Government's policies with regard to mitigation of the removal of the spare room subsidy (bedroom tax), and benefit cap as far as is possible under the Discretionary Financial Assistance Regulations 2001/1167 (the "DFA Regulations").

This instrument will be laid in tandem with an instrument to fully commence the DHP provisions in the 2018 Act, thereby allowing Scottish Ministers to issue a statutory Scottish DHP guidance manual.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

In developing the policy, the following have been invited to input: Child Poverty, Violence Against Women and Girls, Homelessness, Social Security, Analysts and Economists.

The DHP guidance document has been actively developed in partnership with the Convention of Scottish Local Authorities (COSLA). COSLA convened a group of social-security advisers (drawn from local authorities) with knowledge of the DHP scheme to provide detailed advice and feedback on the operation of the scheme, and on the impacts of changing the legislative basis of the scheme.

To comply with section 176(1)(aa) of the Social Security Administration Act 1992, which requires consultation with organisations appearing to the Scottish Ministers to be representative of the authorities concerned when making regulations under section 69 of the Child Support, Pensions and Social Security Act 2000, the Scottish Ministers performed a formal consultation with COSLA. The consultation provided feedback on the statutory guidance document and accepted the requirement to revoke the DFA Regulations.

Impact Assessments

An Equalities Impact Assessment and a Stage 1 and 2 Children's Rights and Welfare Impact Assessment have been complected.

A Data Protection Impact Assessment was not carried out because no personally identifiable data, or unique identifiers, will be collected by the Scottish Government. It was also considered that the policy will have no impact on the environment and will not have a significantly different effect on any island communities.

Financial Effects

The Scottish Fiscal Commission's view is that these regulations, combined with the accompanying commencement regulations and new statutory guidance, are likely to have only a negligible effect on Scottish Government spending on Discretionary Housing Payments.

A Business and Regulatory Impact Assessment (BRIA) has been completed. The Scottish Government is satisfied that the Bill has no significant impact on businesses and other non-public bodies.

Scottish Government
Directorate for Local Government and Housing
February 2024