

WELFARE REFORM AND PENSIONS ACT 1999

EXPLANATORY NOTES

COMMENTARY

Commentary

Part III

Chapter III: Other Welfare Provisions

Section 79: measures to reduce under-occupation by housing benefit claimants

This section will allow tenants living in the social rented sector (typically, property owned or managed by a local authority or a housing association), who are in receipt of Housing Benefit (HB), to keep part of any benefit saving generated by moving to cheaper and smaller accommodation.

The scheme to be made under this section will encourage tenants who are “under-occupying” accommodation in the public or social rented sector (that is, living in accommodation that is considered large in relation to their number and needs) to move to smaller and cheaper accommodation. On completion of the move, HB claimants will be rewarded with a lump-sum payment equivalent to half the difference between their old and new weekly rent, multiplied by 156. Since HB usually meets 100% of rental costs in the social rented sector, this is roughly half of the benefit savings expected over three years. It is intended that the lump sum will be disregarded as capital in the calculation of entitlement to income-related benefits, such as Income Support or the Working Families Tax Credit.

Regulations under *subsections (1) and (3)* would define exactly how the sum paid to claimants should be calculated, and in what circumstances a dwelling would be regarded as “under-occupied” (for example, a 3-bedroom house could be regarded as exceeding the requirements of a couple).

Subsection (4) gives power to make deductions from the lump-sum payment for any arrears of rent owed by the tenant, or for any overpayment of HB which is recoverable from the claimant.

Other debts to the local authority or to the DSS (e.g. the Social Fund) are not to be deducted; deductions are to be strictly limited to the two items mentioned.

Subsection (5) provides a right of appeal against decisions made under the scheme.

The details of the appeal – for example, the appeal body, the determinations that may be appealed against and the appeals procedure – will be set out in regulations.

The section would allow the under-occupation scheme to be applied nationwide, though *subsection (7)* makes clear that no local authority would be obliged to take part in the scheme. However, the intention is to pilot the scheme in three local authorities; therefore *subsection (6)* allows the power to be used for a limited time and in certain areas only,

*These notes refer to the Welfare Reform and Pensions Act 1999
(c.30) which received Royal Assent on 11 November 1999*

and for any necessary transitional arrangements to be made. Section 83(8) would allow different provision in different areas.

Subsection (9) provides that the under-occupation scheme payments should be administered under the rules and powers for Housing Benefit (which are set out in the Administration Act)—but allows for exceptions to be specified.

Among the HB rules is the procedure for the DSS to reimburse local authorities for the money they pay in benefits. Normally this happens through a subsidy system; the subsidy rules mean that an authority may not always receive the full amount it pays out. However, *subsection (8)* provides the power to prescribe a different claims and payments mechanism. The intention is that, under the scheme, authorities should be reimbursed *in full* for the lump-sum payments they make.