

*These notes refer to the Welfare Reform Act (Northern Ireland)
2007 (c.2) which received Royal Assent on 27 June 2007*

Welfare Reform Act (Northern Ireland) 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

PART 2: Housing benefit

Section 31: Loss of housing benefit following eviction for anti-social behaviour, etc

The intention is that this measure will not be introduced until piloting of the sanction in England has been fully evaluated.

Section 31(1) inserts sections 129B to 129F into the Contributions and Benefits Act. Section 129B provides for the reduction, or non-payment, of housing benefit where the following conditions are met:

- a relevant order for possession of the claimant's home has been made by a court on grounds relating to anti-social or criminal behaviour. The relevant orders are set out in section 129C.
- the claimant has ceased to live in that home as a result of that order.
- the claimant has failed to comply without good cause, with a warning notice from the Housing Executive about improving his behaviour (section 129B(2)).
- the claimant satisfies the conditions for entitlement to housing benefit.

It is intended that once a person has satisfied the first two conditions, the Housing Executive will make an attempt to engage with him, if it has not already, with the aim of ending, or preventing repetition of, his anti-social behaviour through the provision of rehabilitation. Where the person refuses to co-operate, the Housing Executive will have the option of using this sanction to encourage him to co-operate with the rehabilitation.

Section 129B(3) provides a power to prescribe the rate of benefit reduction and the circumstances in which it is payable. The intention is to reduce housing benefit by 10 per cent. for the first 4 weeks, followed by 20 per cent. for a further 4 weeks and then 100 per cent. for either a period of up to 5 years beginning with the date of the possession order (section 129B(6)) or until the Housing Executive considers that the sanction should no longer apply (section 129B(5)). Examples of circumstances where the Housing Executive might consider the sanction is no longer appropriate are where the person has begun co-operating with

rehabilitation, where rehabilitation services are no longer available or where the person has, or his family have, become particularly vulnerable. It is intended that a lower rate of reduction will apply to those considered to be in hardship. This could include households where someone is seriously ill or pregnant and households with children or which include those with caring responsibilities.

The sanction, having been brought to an end by the Housing Executive can be restarted if the person fails to comply with a further warning notice. If the person stops co-operating with rehabilitation, a further warning can be issued or further action specified. If this is not complied with, without good cause, the sanction will start to run again (section 129B(5)).

Only one sanction can be applied in relation to a relevant order for possession, albeit the sanction can stop and start up to the date 5 years after the original possession order was made (section 129B(7)).

Section 129C sets out the relevant orders for possession. All the orders for possession specified in subsection (1) are made on grounds of behaviour causing a nuisance or annoyance to neighbours or criminal behaviour. It does not matter if the possession is made purely on those grounds or on those grounds coupled with other grounds (section 129C(2)).

The relevant orders for possession specified can be stayed or suspended with conditions attached. Those conditions may relate to behaviour and the payment of rent and rent arrears. If a relevant possession order is made and stayed or suspended with behaviour conditions, the sanction can only be applied if the order takes effect as a result of the breach of those behaviour conditions (section 129C(3) to (5)).

Section 129D(1) provides a power to prescribe circumstances in which benefit not paid due to the application of the sanction can be paid to the claimant. An example of such circumstances would be where a claimant has made a successful application for the relevant order for possession to be set aside.

Section 129D(2) provides a power to vary the definition of relevant orders for possession.

Section 129D(3) provides a power to prescribe the matters which should be taken into account when deciding whether or not a person has good cause, and circumstances in which a person is, or is not, to be regarded as having good cause, for not complying with a warning notice.

Section 129E makes provision for cases where the claimant is a member of a couple. Subsection (2) provides that where both members of a couple lived in a dwelling to which a relevant order for possession relates and left the dwelling as a result, housing benefit could be subject to a future sanction should either member of that couple fail to comply with a warning notice. If only one member of the couple resided in a dwelling to which a relevant order for possession relates the sanction is not to apply (section 129E(3)).

Section 129F(1) allows the Department, by regulations, to require courts to notify it when a relevant order for possession is made and provide relevant details of the order, and also enables the Department to require similar information to that required from a court from others who may be aware of the making of a relevant order for possession. Such people could include, for instance, the landlord. The intention is to place the obligation on the courts in the first instance.

Section 129F(2) enables the Department to provide information obtained under section 129F(1) to the Housing Executive, which will provide rehabilitation services, or to a person authorised by the Housing Executive to provide those services. It also allows the Department to provide information it holds relating to housing benefit to the Housing Executive or service providers.

Section 129F(3) provides for the Department to require, by regulations, relevant information for purposes relating to the administration of housing benefit to be provided by the Housing Executive (providing rehabilitation services) or a person authorised by the Housing Executive to provide those services. Information could include whether a person has satisfied some or all of the conditions of sections 129B(1) or (2).

Section 129F(4) allows the Department to require, by regulations, that relevant information may be shared within the Housing Executive or with other persons (in their roles of administering housing benefit and providing rehabilitation services) for purposes relating to the administration of housing benefit.

Section 129F(5) allows the Department to require, by regulations, that relevant information be shared within the Housing Executive or with other persons (in their roles of administering housing benefit and providing rehabilitation services) for purposes relating to the provision of rehabilitation services.

Section 129F(6) defines relevant information. The manner in which relevant information is to be supplied may be prescribed by the Department (section 129F(7)).

Section 31(2) provides that any regulations made under subsection 129B(3), relating to the rate of the benefit reduction, and regulations made under subsection 129D(2), relating to varying what constitutes a relevant order for possession, would be subject to the confirmatory procedure in the Assembly.

Section 31(3) limits the possible duration of the powers in this section by bringing the provisions of *section 31* to an end on 31 December 2010. Further primary legislation would be required to allow the scheme (or any replacement scheme) to operate after that date.

Section 31(3) is a safeguard to prevent anything done under *section 31* from having effect after 31 December 2010.