



# Welfare Reform Act 2012

## 2012 CHAPTER 5

VALID FROM 25/02/2013

### PART 1

#### UNIVERSAL CREDIT

### CHAPTER 1

#### ENTITLEMENT AND AWARDS

#### *Introductory*

VALID FROM 29/04/2013

### **1 Universal credit**

- (1) A benefit known as universal credit is payable in accordance with this Part.
- (2) Universal credit may, subject as follows, be awarded to—
  - (a) an individual who is not a member of a couple (a “single person”), or
  - (b) members of a couple jointly.
- (3) An award of universal credit is, subject as follows, calculated by reference to—
  - (a) a standard allowance,
  - (b) an amount for responsibility for children or young persons,
  - (c) an amount for housing, and
  - (d) amounts for other particular needs or circumstances.

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## 2 Claims

- (1) A claim may be made for universal credit by—
  - (a) a single person, or
  - (b) members of a couple jointly.
- (2) Regulations may specify circumstances in which a member of a couple may make a claim as a single person.

### *Entitlement*

VALID FROM 29/04/2013

## 3 Entitlement

- (1) A single claimant is entitled to universal credit if the claimant meets—
  - (a) the basic conditions, and
  - (b) the financial conditions for a single claimant.
- (2) Joint claimants are jointly entitled to universal credit if—
  - (a) each of them meets the basic conditions, and
  - (b) they meet the financial conditions for joint claimants.

## 4 Basic conditions

- (1) For the purposes of section 3, a person meets the basic conditions who—
  - (a) is at least 18 years old,
  - (b) has not reached the qualifying age for state pension credit,
  - (c) is in Great Britain,
  - (d) is not receiving education, and
  - (e) has accepted a claimant commitment.
- (2) Regulations may provide for exceptions to the requirement to meet any of the basic conditions (and, for joint claimants, may provide for an exception for one or both).
- (3) For the basic condition in subsection (1)(a) regulations may specify a different minimum age for prescribed cases.
- (4) For the basic condition in subsection (1)(b), the qualifying age for state pension credit is that referred to in section 1(6) of the State Pension Credit Act 2002.
- (5) For the basic condition in subsection (1)(c) regulations may—
  - (a) specify circumstances in which a person is to be treated as being or not being in Great Britain;
  - (b) specify circumstances in which temporary absence from Great Britain is disregarded;
  - (c) modify the application of this Part in relation to a person not in Great Britain who is by virtue of paragraph (b) entitled to universal credit.
- (6) For the basic condition in subsection (1)(d) regulations may—

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- (a) specify what “receiving education” means;
- (b) specify circumstances in which a person is to be treated as receiving or not receiving education.

(7) For the basic condition in subsection (1)(e) regulations may specify circumstances in which a person is to be treated as having accepted or not accepted a claimant commitment.

## **5 Financial conditions**

(1) For the purposes of section 3, the financial conditions for a single claimant are that—

- (a) the claimant's capital, or a prescribed part of it, is not greater than a prescribed amount, and
- (b) the claimant's income is such that, if the claimant were entitled to universal credit, the amount payable would not be less than any prescribed minimum.

(2) For those purposes, the financial conditions for joint claimants are that—

- (a) their combined capital, or a prescribed part of it, is not greater than a prescribed amount, and
- (b) their combined income is such that, if they were entitled to universal credit, the amount payable would not be less than any prescribed minimum.

## **6 Restrictions on entitlement**

(1) Entitlement to universal credit does not arise—

- (a) in prescribed circumstances (even though the requirements in section 3 are met);
- (b) if the requirements in section 3 are met for a period shorter than a prescribed period;
- (c) for a prescribed period at the beginning of a period during which those requirements are met.

(2) A period prescribed under subsection (1)(b) or (c) may not exceed seven days.

(3) Regulations may provide for exceptions to subsection (1)(b) or (c).

### *Awards*

## **7 Basis of awards**

(1) Universal credit is payable in respect of each complete assessment period within a period of entitlement.

(2) In this Part an “assessment period” is a period of a prescribed duration.

(3) Regulations may make provision—

- (a) about when an assessment period is to start;
- (b) for universal credit to be payable in respect of a period shorter than an assessment period;
- (c) about the amount payable in respect of a period shorter than an assessment period.

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- (4) In subsection (1) “period of entitlement” means a period during which entitlement to universal credit subsists.

## **8 Calculation of awards**

- (1) The amount of an award of universal credit is to be the balance of—
- (a) the maximum amount (see subsection (2)), less
  - (b) the amounts to be deducted (see subsection (3)).
- (2) The maximum amount is the total of—
- (a) any amount included under section 9 (standard allowance),
  - (b) any amount included under section 10 (responsibility for children and young persons),
  - (c) any amount included under section 11 (housing costs), and
  - (d) any amount included under section 12 (other particular needs or circumstances).
- (3) The amounts to be deducted are—
- (a) an amount in respect of earned income calculated in the prescribed manner (which may include multiplying some or all earned income by a prescribed percentage), and
  - (b) an amount in respect of unearned income calculated in the prescribed manner (which may include multiplying some or all unearned income by a prescribed percentage).
- (4) In subsection (3)(a) and (b) the references to income are—
- (a) in the case of a single claimant, to income of the claimant, and
  - (b) in the case of joint claimants, to combined income of the claimants.

### *Elements of an award*

## **9 Standard allowance**

- (1) The calculation of an award of universal credit is to include an amount by way of an allowance for—
- (a) a single claimant, or
  - (b) joint claimants.
- (2) Regulations are to specify the amount to be included under subsection (1).
- (3) Regulations may provide for exceptions to subsection (1).

## **10 Responsibility for children and young persons**

- (1) The calculation of an award of universal credit is to include an amount for each child or qualifying young person for whom a claimant is responsible.
- (2) Regulations may make provision for the inclusion of an additional amount if such a child or qualifying young person is disabled.

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- (3) Regulations are to specify, or provide for the calculation of, amounts to be included under subsection (1) or (2).
- (4) Regulations may provide for exceptions to subsection (1).
- (5) In this Part, “qualifying young person” means a person of a prescribed description.

## **11 Housing costs**

- (1) The calculation of an award of universal credit is to include an amount in respect of any liability of a claimant to make payments in respect of the accommodation they occupy as their home.
- (2) For the purposes of subsection (1)—
  - (a) the accommodation must be in Great Britain;
  - (b) the accommodation must be residential accommodation;
  - (c) it is immaterial whether the accommodation consists of the whole or part of a building and whether or not it comprises separate and self-contained premises.
- (3) Regulations may make provision as to—
  - (a) what is meant by payments in respect of accommodation for the purposes of this section (and, in particular, the extent to which such payments include mortgage payments);
  - (b) circumstances in which a claimant is to be treated as liable or not liable to make such payments;
  - (c) circumstances in which a claimant is to be treated as occupying or not occupying accommodation as their home (and, in particular, for temporary absences to be disregarded);
  - (d) circumstances in which land used for the purposes of any accommodation is to be treated as included in the accommodation.
- (4) Regulations are to provide for the determination or calculation of any amount to be included under this section.
- (5) Regulations may—
  - (a) provide for exceptions to subsection (1);
  - (b) provide for inclusion of an amount under this section in the calculation of an award of universal credit—
    - (i) to end at a prescribed time, or
    - (ii) not to start until a prescribed time.

## **12 Other particular needs or circumstances**

- (1) The calculation of an award of universal credit is to include amounts in respect of such particular needs or circumstances of a claimant as may be prescribed.
- (2) The needs or circumstances prescribed under subsection (1) may include—
  - (a) the fact that a claimant has limited capability for work;
  - (b) the fact that a claimant has limited capability for work and work-related activity;

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- (c) the fact that a claimant has regular and substantial caring responsibilities for a severely disabled person.
- (3) Regulations are to specify, or provide for the determination or calculation of, any amount to be included under subsection (1).
- (4) Regulations may—
  - (a) provide for inclusion of an amount under this section in the calculation of an award of universal credit—
    - (i) to end at a prescribed time, or
    - (ii) not to start until a prescribed time;
  - (b) provide for the manner in which a claimant's needs or circumstances are to be determined.

## CHAPTER 2

### CLAIMANT RESPONSIBILITIES

#### *Introductory*

VALID FROM 29/04/2013

### **13 Work-related requirements: introductory**

- (1) This Chapter provides for the Secretary of State to impose work-related requirements with which claimants must comply for the purposes of this Part.
- (2) In this Part “work-related requirement” means—
  - (a) a work-focused interview requirement (see section 15);
  - (b) a work preparation requirement (see section 16);
  - (c) a work search requirement (see section 17);
  - (d) a work availability requirement (see section 18).
- (3) The work-related requirements which may be imposed on a claimant depend on which of the following groups the claimant falls into—
  - (a) no work-related requirements (see section 19);
  - (b) work-focused interview requirement only (see section 20);
  - (c) work-focused interview and work preparation requirements only (see section 21);
  - (d) all work-related requirements (see section 22).

### **14 Claimant commitment**

- (1) A claimant commitment is a record of a claimant's responsibilities in relation to an award of universal credit.
- (2) A claimant commitment is to be prepared by the Secretary of State and may be reviewed and updated as the Secretary of State thinks fit.

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- (3) A claimant commitment is to be in such form as the Secretary of State thinks fit.
- (4) A claimant commitment is to include—
  - (a) a record of the requirements that the claimant must comply with under this Part (or such of them as the Secretary of State considers it appropriate to include),
  - (b) any prescribed information, and
  - (c) any other information the Secretary of State considers it appropriate to include.
- (5) For the purposes of this Part a claimant accepts a claimant commitment if, and only if, the claimant accepts the most up-to-date version of it in such manner as may be prescribed.

#### *Work-related requirements*

### **15 Work-focused interview requirement**

- (1) In this Part a “work-focused interview requirement” is a requirement that a claimant participate in one or more work-focused interviews as specified by the Secretary of State.
- (2) A work-focused interview is an interview for prescribed purposes relating to work or work preparation.
- (3) The purposes which may be prescribed under subsection (2) include in particular that of making it more likely in the opinion of the Secretary of State that the claimant will obtain paid work (or more paid work or better-paid work).
- (4) The Secretary of State may specify how, when and where a work-focused interview is to take place.

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### **16 Work preparation requirement**

- (1) In this Part a “work preparation requirement” is a requirement that a claimant take particular action specified by the Secretary of State for the purpose of making it more likely in the opinion of the Secretary of State that the claimant will obtain paid work (or more paid work or better-paid work).
- (2) The Secretary of State may under subsection (1) specify the time to be devoted to any particular action.
- (3) Action which may be specified under subsection (1) includes in particular—
  - (a) attending a skills assessment;
  - (b) improving personal presentation;
  - (c) participating in training;
  - (d) participating in an employment programme;
  - (e) undertaking work experience or a work placement;
  - (f) developing a business plan;

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- (g) any action prescribed for the purpose in subsection (1).
- (4) In the case of a person with limited capability for work, the action which may be specified under subsection (1) includes taking part in a work-focused health-related assessment.
- (5) In subsection (4) “work-focused health-related assessment” means an assessment by a health care professional approved by the Secretary of State which is carried out for the purpose of assessing—
  - (a) the extent to which the person's capability for work may be improved by taking steps in relation to their physical or mental condition, and
  - (b) such other matters relating to their physical or mental condition and the likelihood of their obtaining or remaining in work or being able to do so as may be prescribed.
- (6) In subsection (5) “health care professional” means—
  - (a) a registered medical practitioner,
  - (b) a registered nurse,
  - (c) an occupational therapist or physiotherapist registered with a regulatory body established by an Order in Council under section 60 of the Health Act 1999, or
  - (d) a member of such other profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002 as may be prescribed.

## 17 Work search requirement

- (1) In this Part a “work search requirement” is a requirement that a claimant take—
  - (a) all reasonable action, and
  - (b) any particular action specified by the Secretary of State,
 for the purpose of obtaining paid work (or more paid work or better-paid work).
- (2) The Secretary of State may under subsection (1)(b) specify the time to be devoted to any particular action.
- (3) Action which may be specified under subsection (1)(b) includes in particular—
  - (a) carrying out work searches;
  - (b) making applications;
  - (c) creating and maintaining an online profile;
  - (d) registering with an employment agency;
  - (e) seeking references;
  - (f) any action prescribed for the purpose in subsection (1).
- (4) Regulations may impose limitations on a work search requirement by reference to the work to which it relates; and the Secretary of State may in any particular case specify further such limitations on such a requirement.
- (5) A limitation under subsection (4) may in particular be by reference to—
  - (a) work of a particular nature,
  - (b) work with a particular level of remuneration,
  - (c) work in particular locations, or



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(d) work available for a certain number of hours per week or at particular times, and may be indefinite or for a particular period.

## **18 Work availability requirement**

- (1) In this Part a “work availability requirement” is a requirement that a claimant be available for work.
- (2) For the purposes of this section “available for work” means able and willing immediately to take up paid work (or more paid work or better-paid work).
- (3) Regulations may impose limitations on a work availability requirement by reference to the work to which it relates; and the Secretary of State may in any particular case specify further such limitations on such a requirement.
- (4) A limitation under subsection (3) may in particular be by reference to—
  - (a) work of a particular nature,
  - (b) work with a particular level of remuneration,
  - (c) work in particular locations, or
  - (d) work available for a certain number of hours per week or at particular times, and may be indefinite or for a particular period.
- (5) Regulations may for the purposes of subsection (2) define what is meant by a person being able and willing immediately to take up work.

### *Application of work-related requirements*

## **19 Claimants subject to no work-related requirements**

- (1) The Secretary of State may not impose any work-related requirement on a claimant falling within this section.
- (2) A claimant falls within this section if—
  - (a) the claimant has limited capability for work and work-related activity,
  - (b) the claimant has regular and substantial caring responsibilities for a severely disabled person,
  - (c) the claimant is the responsible carer for a child under the age of 1, or
  - (d) the claimant is of a prescribed description.
- (3) Regulations under subsection (2)(d) may in particular make provision by reference to one or more of the following—
  - (a) hours worked;
  - (b) earnings or income;
  - (c) the amount of universal credit payable.
- (4) Regulations under subsection (3) may—
  - (a) in the case of a claimant who is a member of the couple, make provision by reference to the claimant alone or by reference to the members of the couple together;
  - (b) make provision for estimating or calculating any matter for the purpose of the regulations.

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(5) Where a claimant falls within this section, any work-related requirement previously applying to the claimant ceases to have effect.

(6) In this Part “responsible carer”, in relation to a child means—

- (a) a single person who is responsible for the child, or
- (b) a person who is a member of a couple where—
  - (i) the person or the other member of the couple is responsible for the child, and
  - (ii) the person has been nominated by the couple jointly as responsible for the child.

## **20 Claimants subject to work-focused interview requirement only**

(1) A claimant falls within this section if—

- (a) the claimant is the responsible carer for a child who is aged at least 1 and is under a prescribed age (which may not be less than 3), or
- (b) the claimant is of a prescribed description.

(2) The Secretary of State may, subject to this Part, impose a work-focused interview requirement on a claimant falling within this section.

(3) The Secretary of State may not impose any other work-related requirement on a claimant falling within this section (and, where a claimant falls within this section, any other work-related requirement previously applying to the claimant ceases to have effect).

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## **21 Claimants subject to work preparation requirement**

(1) A claimant falls within this section if the claimant does not fall within section 19 or 20 and—

- (a) the claimant has limited capability for work, or
- (b) the claimant is of a prescribed description.

(2) The Secretary of State may, subject to this Part, impose a work preparation requirement on a claimant falling within this section.

(3) The Secretary of State may also, subject to this Part, impose a work-focused interview requirement on a claimant falling within this section.

(4) The Secretary of State may not impose any other work-related requirement on a claimant falling within this section (and, where a claimant falls within this section, any other work-related requirement previously applying to the claimant ceases to have effect).

(5) Regulations under subsection (1)(b) must prescribe a claimant who is the responsible carer for a child aged 3 or 4 if the claimant does not fall within section 20.

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## 22 Claimants subject to all work-related requirements

- (1) A claimant not falling within any of sections 19 to 21 falls within this section.
- (2) The Secretary of State must, except in prescribed circumstances, impose on a claimant falling within this section—
  - (a) a work search requirement, and
  - (b) a work availability requirement.
- (3) The Secretary of State may, subject to this Part, impose either or both of the following on a claimant falling within this section—
  - (a) a work-focused interview requirement;
  - (b) a work preparation requirement.

*Work-related requirements: supplementary*

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## 23 Connected requirements

- (1) The Secretary of State may require a claimant to participate in an interview for any purpose relating to—
  - (a) the imposition of a work-related requirement on the claimant;
  - (b) verifying the claimant's compliance with a work-related requirement;
  - (c) assisting the claimant to comply with a work-related requirement.
- (2) The Secretary of State may specify how, when and where such an interview is to take place.
- (3) The Secretary of State may, for the purpose of verifying the claimant's compliance with a work-related requirement, require a claimant to—
  - (a) provide to the Secretary of State information and evidence specified by the Secretary of State in a manner so specified;
  - (b) confirm compliance in a manner so specified.
- (4) The Secretary of State may require a claimant to report to the Secretary of State any specified changes in their circumstances which are relevant to—
  - (a) the imposition of work-related requirements on the claimant;
  - (b) the claimant's compliance with a work-related requirement.

## 24 Imposition of requirements

- (1) Regulations may make provision—
  - (a) where the Secretary of State may impose a requirement under this Part, as to when the requirement must or must not be imposed;
  - (b) where the Secretary of State may specify any action to be taken in relation to a requirement under this Part, as to what action must or must not be specified;
  - (c) where the Secretary of State may specify any other matter in relation to a requirement under this Part, as to what must or must not be specified in respect of that matter.

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- (2) Where the Secretary of State may impose a work-focused interview requirement, or specify a particular action under section 16(1) or 17(1)(b), the Secretary of State must have regard to such matters as may be prescribed.
- (3) Where the Secretary of State may impose a requirement under this Part, or specify any action to be taken in relation to such a requirement, the Secretary of State may revoke or change what has been imposed or specified.
- (4) Notification of a requirement imposed under this Part (or any change to or revocation of such a requirement) is, if not included in the claimant commitment, to be in such manner as the Secretary of State may determine.
- (5) Regulations must make provision to secure that, in prescribed circumstances, where a claimant has recently been a victim of domestic violence—
  - (a) a requirement imposed on that claimant under this Part ceases to have effect for a period of 13 weeks, and
  - (b) the Secretary of State may not impose any other requirement under this Part on that claimant during that period.
- (6) For the purposes of subsection (5)—
  - (a) “domestic violence” has such meaning as may be prescribed;
  - (b) “victim of domestic violence” means a person on or against whom domestic violence is inflicted or threatened (and regulations under subsection (5) may prescribe circumstances in which a person is to be treated as being or not being a victim of domestic violence);
  - (c) a person has recently been a victim of domestic violence if a prescribed period has not expired since the violence was inflicted or threatened.

## **25 Compliance with requirements**

Regulations may make provision as to circumstances in which a claimant is to be treated as having—

- (a) complied with or not complied with any requirement imposed under this Part or any aspect of such a requirement, or
- (b) taken or not taken any particular action specified by the Secretary of State in relation to such a requirement.

### *Reduction of benefit*

## **26 Higher-level sanctions**

- (1) The amount of an award of universal credit is to be reduced in accordance with this section in the event of a failure by a claimant which is sanctionable under this section.
- (2) It is a failure sanctionable under this section if a claimant falling within section 22—
  - (a) fails for no good reason to comply with a requirement imposed by the Secretary of State under a work preparation requirement to undertake a work placement of a prescribed description;
  - (b) fails for no good reason to comply with a requirement imposed by the Secretary of State under a work search requirement to apply for a particular vacancy for paid work;

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- (c) fails for no good reason to comply with a work availability requirement by not taking up an offer of paid work;
  - (d) by reason of misconduct, or voluntarily and for no good reason, ceases paid work or loses pay.
- (3) It is a failure sanctionable under this section if by reason of misconduct, or voluntarily and for no good reason, a claimant falling within section 19 by virtue of subsection (3) of that section ceases paid work or loses pay so as to cease to fall within that section and to fall within section 22 instead.
- (4) It is a failure sanctionable under this section if, at any time before making the claim by reference to which the award is made, the claimant—
- (a) for no good reason failed to take up an offer of paid work, or
  - (b) by reason of misconduct, or voluntarily and for no good reason, ceased paid work or lost pay,
- and at the time the award is made the claimant falls within section 22.
- (5) For the purposes of subsections (2) to (4) regulations may provide—
- (a) for circumstances in which ceasing to work or losing pay is to be treated as occurring or not occurring by reason of misconduct or voluntarily;
  - (b) for loss of pay below a prescribed level to be disregarded.
- (6) Regulations are to provide for—
- (a) the amount of a reduction under this section;
  - (b) the period for which such a reduction has effect, not exceeding three years in relation to any failure sanctionable under this section.
- (7) Regulations under subsection (6)(b) may in particular provide for the period of a reduction to depend on either or both of the following—
- (a) the number of failures by the claimant sanctionable under this section;
  - (b) the period between such failures.
- (8) Regulations may provide—
- (a) for cases in which no reduction is to be made under this section;
  - (b) for a reduction under this section made in relation to an award that is terminated to be applied to any new award made within a prescribed period of the termination;
  - (c) for the termination or suspension of a reduction under this section.

## 27 Other sanctions

- (1) The amount of an award of universal credit is to be reduced in accordance with this section in the event of a failure by a claimant which is sanctionable under this section.
- (2) It is a failure sanctionable under this section if a claimant—
- (a) fails for no good reason to comply with a work-related requirement;
  - (b) fails for no good reason to comply with a requirement under section 23.
- (3) But a failure by a claimant is not sanctionable under this section if it is also a failure sanctionable under section 26.
- (4) Regulations are to provide for—
- (a) the amount of a reduction under this section, and

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- (b) the period for which such a reduction has effect.
- (5) Regulations under subsection (4)(b) may provide that a reduction under this section in relation to any failure is to have effect for—
  - (a) a period continuing until the claimant meets a compliance condition specified by the Secretary of State,
  - (b) a fixed period not exceeding 26 weeks which is—
    - (i) specified in the regulations, or
    - (ii) determined in any case by the Secretary of State, or
  - (c) a combination of both.
- (6) In subsection (5)(a) “compliance condition” means—
  - (a) a condition that the failure ceases, or
  - (b) a condition relating to future compliance with a work-related requirement or a requirement under section 23.
- (7) A compliance condition specified under subsection (5)(a) may be—
  - (a) revoked or varied by the Secretary of State;
  - (b) notified to the claimant in such manner as the Secretary of State may determine.
- (8) A period fixed under subsection (5)(b) may in particular depend on either or both the following—
  - (a) the number of failures by the claimant sanctionable under this section;
  - (b) the period between such failures.
- (9) Regulations may provide—
  - (a) for cases in which no reduction is to be made under this section;
  - (b) for a reduction under this section made in relation to an award that is terminated to be applied to any new award made within a prescribed period of the termination;
  - (c) for the termination or suspension of a reduction under this section.

## **28 Hardship payments**

- (1) Regulations may make provision for the making of additional payments by way of universal credit to a claimant (“hardship payments”) where—
  - (a) the amount of the claimant's award is reduced under section 26 or 27, and
  - (b) the claimant is or will be in hardship.
- (2) Regulations under this section may in particular make provision as to—
  - (a) circumstances in which a claimant is to be treated as being or not being in hardship;
  - (b) matters to be taken into account in determining whether a claimant is or will be in hardship;
  - (c) requirements or conditions to be met by a claimant in order to receive hardship payments;
  - (d) the amount or rate of hardship payments;
  - (e) the period for which hardship payments may be made;
  - (f) whether hardship payments are recoverable.

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VALID FROM 29/04/2013

### *Administration*

#### **29 Delegation and contracting out**

- (1) The functions of the Secretary of State under sections 13 to 25 may be exercised by, or by the employees of, such person as the Secretary of State may authorise for the purpose (an “authorised person”).
- (2) An authorisation given by virtue of this section may authorise the exercise of a function—
  - (a) wholly or to a limited extent;
  - (b) generally or in particular cases or areas;
  - (c) unconditionally or subject to conditions.
- (3) An authorisation under this section—
  - (a) may specify its duration;
  - (b) may be varied or revoked at any time by the Secretary of State;
  - (c) does not prevent the Secretary of State or another person from exercising the function to which the authorisation relates.
- (4) Anything done or omitted to be done by or in relation to an authorised person (or an employee of that person) in, or in connection with, the exercise or purported exercise of the function concerned is to be treated for all purposes as done or omitted to be done by or in relation to the Secretary of State or (as the case may be) an officer of the Secretary of State.
- (5) Subsection (4) does not apply—
  - (a) for the purposes of so much of any contract made between the authorised person and the Secretary of State as relates to the exercise of the function, or
  - (b) for the purposes of any criminal proceedings brought in respect of anything done or omitted to be done by the authorised person (or an employee of that person).
- (6) Where—
  - (a) the authorisation of an authorised person is revoked, and
  - (b) at the time of the revocation so much of any contract made between the authorised person and the Secretary of State as relates to the exercise of the function is subsisting,

the authorised person is entitled to treat the contract as repudiated by the Secretary of State (and not as frustrated by reason of the revocation).

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## CHAPTER 3

### SUPPLEMENTARY AND GENERAL

#### *Supplementary and consequential*

#### **30 Supplementary regulation-making powers**

Schedule 1 contains supplementary regulation-making powers.

#### **31 Supplementary and consequential amendments**

Schedule 2 contains supplementary and consequential amendments.

#### **32 Power to make supplementary and consequential provision etc**

- (1) The appropriate authority may by regulations make such consequential, supplementary, incidental or transitional provision in relation to any provision of this Part as the authority considers appropriate.
- (2) The appropriate authority is the Secretary of State, subject to subsection (3).
- (3) The appropriate authority is the Welsh Ministers for—
  - (a) provision which would be within the legislative competence of the National Assembly for Wales were it contained in an Act of the Assembly;
  - (b) provision which could be made by the Welsh Ministers under any other power conferred on them.
- (4) Regulations under this section may amend, repeal or revoke any primary or secondary legislation (whenever passed or made).

#### *Universal credit and other benefits*

VALID FROM 01/04/2013

#### **33 Abolition of benefits**

- (1) The following benefits are abolished—
  - (a) income-based jobseeker's allowance under the Jobseekers Act 1995;
  - (b) income-related employment and support allowance under Part 1 of the Welfare Reform Act 2007;
  - (c) income support under section 124 of the Social Security Contributions and Benefits Act 1992;
  - (d) housing benefit under section 130 of that Act;
  - (e) council tax benefit under section 131 of that Act;
  - (f) child tax credit and working tax credit under the Tax Credits Act 2002.
- (2) In subsection (1)—
  - (a) “income-based jobseeker's allowance” has the same meaning as in the Jobseekers Act 1995;



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(b) “income-related employment and support allowance” means an employment and support allowance entitlement to which is based on section 1(2)(b) of the Welfare Reform Act 2007.

(3) Schedule 3 contains consequential amendments.

PROSPECTIVE

### 34 Universal credit and state pension credit

Schedule 4 provides for a housing element of state pension credit in consequence of the abolition of housing benefit by section 33.

#### Modifications etc. (not altering text)

- C1 Pt. 1 modified by 1995 c. 18, Sch. 1 para. 2(3) (as inserted (29.4.2013) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), regs. 1(2), **10(b)**)

### 35 Universal credit and working-age benefits

Schedule 5 makes further provision relating to universal credit, jobseeker's allowance and employment and support allowance.

### 36 Migration to universal credit

Schedule 6 contains provision about the replacement of benefits by universal credit.

#### General

### 37 Capability for work or work-related activity

- (1) For the purposes of this Part a claimant has limited capability for work if—
  - (a) the claimant's capability for work is limited by their physical or mental condition, and
  - (b) the limitation is such that it is not reasonable to require the claimant to work.
- (2) For the purposes of this Part a claimant has limited capability for work-related activity if—
  - (a) the claimant's capability for work-related activity is limited by their physical or mental condition, and
  - (b) the limitation is such that it is not reasonable to require the claimant to undertake work-related activity.
- (3) The question whether a claimant has limited capability for work or work-related activity for the purposes of this Part is to be determined in accordance with regulations.

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- (4) Regulations under this section must, subject as follows, provide for determination of that question on the basis of an assessment (or repeated assessments) of the claimant.
- (5) Regulations under this section may for the purposes of an assessment—
  - (a) require a claimant to provide information or evidence (and may require it to be provided in a prescribed manner or form);
  - (b) require a claimant to attend and submit to a medical examination at a place, date and time determined under the regulations.
- (6) Regulations under this section may make provision for a claimant to be treated as having or not having limited capability for work or work-related activity.
- (7) Regulations under subsection (6) may provide for a claimant who fails to comply with a requirement imposed under subsection (5) without a good reason to be treated as not having limited capability for work or work-related activity.
- (8) Regulations under subsection (6) may provide for a claimant to be treated as having limited capability for work until—
  - (a) it has been determined whether or not that is the case, or
  - (b) the claimant is under any other provision of regulations under subsection (6) treated as not having it.
- (9) Regulations under this section may provide for determination of the question of whether a claimant has limited capability for work or work-related activity even where the claimant is for the time being treated under regulations under subsection (6) as having limited capability for work or work-related activity.

VALID FROM 29/04/2013

### **38 Information**

Information supplied under Chapter 2 of this Part or section 37 is to be taken for all purposes to be information relating to social security.

### **39 Couples**

- (1) In this Part “couple” means—
  - (a) a man and woman who are married to each other and are members of the same household;
  - (b) a man and woman who are not married to each other but are living together as husband and wife;
  - (c) two people of the same sex who are civil partners of each other and are members of the same household;
  - (d) two people of the same sex who are not civil partners of each other but are living together as civil partners.
- (2) For the purposes of this section, two people of the same sex are to be treated as living together as if they were civil partners if, and only if, they would be treated as living together as husband and wife were they of opposite sexes.
- (3) For the purposes of this section regulations may prescribe—

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- (a) circumstances in which the fact that two persons are husband and wife or are civil partners is to be disregarded;
- (b) circumstances in which a man and a woman are to be treated as living together as husband and wife;
- (c) circumstances in which people are to be treated as being or not being members of the same household.

#### 40 Interpretation of Part 1

In this Part—

- “assessment period” has the meaning given by section 7(2);
- “child” means a person under the age of 16;
- “claim” means claim for universal credit;
- “claimant” means a single claimant or each of joint claimants;
- “couple” has the meaning given by section 39;
- “disabled” has such meaning as may be prescribed;
- “joint claimants” means members of a couple who jointly make a claim or in relation to whom an award of universal credit is made;
- “limited capability for work” and “limited capability for work-related activity” are to be construed in accordance with section 37(1) and (2);
- “prescribed” means specified or provided for in regulations;
- “primary legislation” means an Act, Act of the Scottish Parliament or Act or Measure of the National Assembly for Wales;
- “qualifying young person” has the meaning given in section 10(5);
- “regular and substantial caring responsibilities” has such meaning as may be prescribed;
- “responsible carer”, in relation to a child, has the meaning given in section 19(6);
- “secondary legislation” means an instrument made under primary legislation”;
- “severely disabled” has such meaning as may be prescribed;
- “single claimant” means a single person who makes a claim for universal credit or in relation to whom an award of universal credit is made as a single person;
- “single person” is to be construed in accordance with section 1(2)(a);
- “work” has such meaning as may be prescribed;
- “work availability requirement” has the meaning given by section 18(1);
- “work preparation requirement” has the meaning given by section 16(1);
- “work search requirement” has the meaning given by section 17(1);
- “work-focused interview requirement” has the meaning given by section 15(1);
- “work-related activity”, in relation to a person, means activity which makes it more likely that the person will obtain or remain in work or be able to do so;
- “work-related requirement” has the meaning given by section 13(2).

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## Regulations

VALID FROM 15/09/2014

### 41 Pilot schemes

- (1) Any power to make—
  - (a) regulations under this Part,
  - (b) regulations under the Social Security Administration Act 1992 relating to universal credit, or
  - (c) regulations under the Social Security Act 1998 relating to universal credit,
 may be exercised so as to make provision for piloting purposes.
- (2) In subsection (1), “piloting purposes”, in relation to any provision, means the purposes of testing—
  - (a) the extent to which the provision is likely to make universal credit simpler to understand or to administer,
  - (b) the extent to which the provision is likely to promote—
    - (i) people remaining in work, or
    - (ii) people obtaining or being able to obtain work (or more work or better-paid work), or
  - (c) the extent to which, and how, the provision is likely to affect the conduct of claimants or other people in any other way.
- (3) Regulations made by virtue of this section are in the remainder of this section referred to as a “pilot scheme“.
- (4) A pilot scheme may be limited in its application to—
  - (a) one or more areas;
  - (b) one or more classes of person;
  - (c) persons selected—
    - (i) by reference to prescribed criteria, or
    - (ii) on a sampling basis.
- (5) A pilot scheme may not have effect for a period exceeding three years, but—
  - (a) the Secretary of State may by order made by statutory instrument provide that the pilot scheme is to continue to have effect after the time when it would otherwise expire for a period not exceeding twelve months (and may make more than one such order);
  - (b) a pilot scheme may be replaced by a further pilot scheme making the same or similar provision.
- (6) A pilot scheme may include consequential or transitional provision in relation to its expiry.

### 42 Regulations: general

- (1) Regulations under this Part are to be made by the Secretary of State, unless otherwise provided.

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- (2) A power to make regulations under this Part may be exercised—
  - (a) so as to make different provision for different cases or purposes;
  - (b) in relation to all or only some of the cases or purposes for which it may be exercised.
- (3) Such a power includes—
  - (a) power to make incidental, supplementary, consequential or transitional provision or savings;
  - (b) power to provide for a person to exercise a discretion in dealing with any matter.
- (4) Each power conferred by this Part is without prejudice to the others.
- (5) Where regulations under this Part provide for an amount, the amount may be zero.
- (6) Where regulations under this Part provide for an amount for the purposes of an award (or a reduction from an award), the amount may be different in relation to different descriptions of person, and in particular may depend on—
  - (a) whether the person is a single person or a member of a couple;
  - (b) the age of the person.
- (7) Regulations under section 11(4) or 12(3) which provide for the determination or calculation of an amount may make different provision for different areas.

#### **43 Regulations: procedure**

- (1) Regulations under this Part are to be made by statutory instrument.
- (2) A statutory instrument containing regulations made by the Secretary of State under this Part is subject to the negative resolution procedure, subject as follows.
- (3) A statutory instrument containing the first regulations made by the Secretary of State under any of the following, alone or with other regulations, is subject to the affirmative resolution procedure—
  - (a) section 4(7) (acceptance of claimant commitment);
  - (b) section 5(1)(a) and (2)(a) (capital limits);
  - (c) section 8(3) (income to be deducted in award calculation);
  - (d) section 9(2) and (3) (standard allowance);
  - (e) section 10(3) and (4) (children and young persons element);
  - (f) section 11 (housing costs element);
  - (g) section 12 (other needs and circumstances element);
  - (h) section 18(3) and (5) (work availability requirement);
  - (i) section 19(2)(d) (claimants subject to no work-related requirements);
  - (j) sections 26 and 27 (sanctions);
  - (k) section 28 (hardship payments);
  - (l) paragraph 4 of Schedule 1 (calculation of capital and income);
  - (m) paragraph 1(1) of Schedule 6 (migration), where making provision under paragraphs 4, 5 and 6 of that Schedule.

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- (4) A statutory instrument containing regulations made by the Secretary of State by virtue of section 41 (pilot schemes), alone or with other regulations, is subject to the affirmative resolution procedure.
- (5) A statutory instrument containing regulations made by the Secretary of State under this Part is subject to the affirmative resolution procedure if—
  - (a) it also contains regulations under another enactment, and
  - (b) an instrument containing those regulations would apart from this section be subject to the affirmative resolution procedure.
- (6) For the purposes of subsections (2) to (5)—
  - (a) a statutory instrument subject to the “negative resolution procedure” is subject to annulment in pursuance of a resolution of either House of Parliament;
  - (b) a statutory instrument subject to the “affirmative resolution procedure” may not be made unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament.
- (7) A statutory instrument containing regulations made by the Welsh Ministers under section 32 may not be made unless a draft of the instrument has been laid before, and approved by resolution of, the National Assembly for Wales.

## PART 2

### WORKING-AGE BENEFITS

#### CHAPTER 1

##### JOBSEEKER'S ALLOWANCE

###### *Claimant responsibilities for interim period*

#### 44 **Claimant commitment for jobseeker's allowance**

- (1) The Jobseekers Act 1995 is amended as follows.
- (2) In section 1 (the jobseeker's allowance), in subsection (2)(b) for “entered into a jobseeker's agreement which remains in force” there is substituted “ accepted a claimant commitment ”.
- (3) For section 9 (the jobseeker's agreement) there is substituted—

##### **“9 Claimant commitment**

- (1) For the purposes of this Act a “claimant commitment” is a record of a claimant's responsibilities in relation to an award of a jobseeker's allowance.
- (2) A claimant commitment shall—
  - (a) be prepared by an employment officer,
  - (b) be in such form as the Secretary of State thinks fit,

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- (c) include any prescribed information, and
  - (d) include any other information an employment officer or the Secretary of State considers it appropriate to include.
- (3) Information included in a claimant commitment under subsection (2)(d) may include—
  - (a) information in respect of the conditions mentioned in section 1(2)(a) and (c);
  - (b) details of any requirement imposed on the claimant by virtue of regulations under section 8 or 17A, or under a jobseeker's direction;
  - (c) details of any consequences of a failure to comply with such a requirement.
- (4) A claimant shall not be invited to accept a claimant commitment by an employment officer unless, in the opinion of the employment officer, the conditions mentioned in section 1(2)(a) and (c) would be satisfied with respect to the claimant if he were to act in accordance with, or be treated as acting in accordance with, the proposed claimant commitment.
- (5) The employment officer may, and if asked to do so by the claimant shall forthwith, refer a proposed claimant commitment to the Secretary of State for him to determine—
  - (a) whether, if the claimant were to act in accordance with the proposed claimant commitment, he would satisfy—
    - (i) the condition mentioned in section 1(2)(a), or
    - (ii) the condition mentioned in section 1(2)(c), and
  - (b) whether it is reasonable to expect the claimant to have to act in accordance with the proposed claimant commitment.
- (6) A reference under subsection (5) may only relate to information included in the proposed claimant commitment under subsection (3)(a).
- (7) On a reference under subsection (5) the Secretary of State—
  - (a) shall, so far as practicable, dispose of it in accordance with this section before the end of the period of 14 days from the date of the reference;
  - (b) may give such directions, with respect to the terms of the proposed claimant commitment, as the Secretary of State considers appropriate;
  - (c) may direct that, if such conditions as he considers appropriate are satisfied, the proposed claimant commitment is to be treated (if accepted) as having been accepted by the claimant on such date as may be specified in the direction.
- (8) Regulations may provide—
  - (a) for such matters as may be prescribed to be taken into account by the Secretary of State in giving a direction under subsection (7)(c), and
  - (b) for such persons as may be prescribed to be notified of—
    - (i) any determination of the Secretary of State under this section;
    - (ii) any direction given by the Secretary of State under this section.
- (9) Regulations may provide that, in prescribed circumstances, a claimant is to be treated as having satisfied the condition mentioned in section 1(2)(b).

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(10) For the purposes of this Act a claimant accepts a claimant commitment if, and only if, the claimant accepts the most up-to-date version of it in such manner as may be prescribed.”

(4) For section 10 (variation of jobseeker's agreement) there is substituted—

**“10 Variation of claimant commitment**

- (1) A claimant commitment may be varied by an employment officer.
- (2) An employment officer shall not vary a claimant commitment unless, in the opinion of the employment officer, the conditions mentioned in section 1(2) (a) and (c) would continue to be satisfied with respect to the claimant if he were to act in accordance with, or be treated as acting in accordance with, the varied claimant commitment.
- (3) An employment officer shall, before making a relevant variation of a claimant commitment, notify the claimant of the proposed variation.
- (4) For the purposes of this section a “relevant variation” of a claimant commitment means a variation which relates to information to be included in the claimant commitment in respect of the conditions mentioned in section 1(2)(a) and (c).
- (5) The employment officer may, and if asked to do so by the claimant in prescribed circumstances, shall forthwith refer a relevant variation of a claimant commitment proposed by the employment officer or requested by the claimant to the Secretary of State to determine—
  - (a) whether, if the claimant were to act in accordance with the claimant commitment as proposed to be varied, he would satisfy—
    - (i) the condition mentioned in section 1(2)(a), or
    - (ii) the condition mentioned in section 1(2)(c), and
  - (b) in the case of a variation proposed by the employment officer, whether it is reasonable to expect the claimant to have to act in accordance with the claimant commitment as proposed to be varied.
- (6) On a reference under subsection (5) the Secretary of State—
  - (a) shall, so far as practicable, dispose of it in accordance with this section before the end of the period of 14 days from the date of the reference,
  - (b) shall give such directions as he considers appropriate as to—
    - (i) whether the claimant commitment should be varied, and
    - (ii) if so, the terms on which the claimant is to accept the varied claimant commitment, and
  - (c) may direct that, if such conditions as he considers appropriate are satisfied, the claimant commitment, as proposed to be varied, is to be treated (if accepted) as having been accepted by the claimant on such date as may be specified in the direction.
- (7) Regulations may provide—
  - (a) for such matters as may be prescribed to be taken into account by the Secretary of State in giving a direction under subsection (6)(b) or (c), and



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- (b) for such persons as may be prescribed to be notified of—
- (i) any determination of the Secretary of State under this section;
  - (ii) any direction given by the Secretary of State under this section.”
- (5) In section 35 (interpretation), in subsection (1), after the definition of “employment” there is inserted—

““employment officer”, for any purpose of this Act, means an officer of the Secretary of State or such other person as may be designated for that purpose by an order made by the Secretary of State;”.

#### Commencement Information

- II** S. 44(5) in force at 10.6.2012 by S.I. 2012/1246, art. 2(3)(a)

VALID FROM 08/10/2012

#### 45 Interviews

In section 8 of the Jobseekers Act 1995 (attendance, information and evidence), in subsections (1)(a) and (1A)(a) for “attend at such place and at such time” there is substituted “ participate in an interview in such manner, time and place ”.

#### 46 Sanctions

- (1) For section 19 of the Jobseekers Act 1995 (circumstances in which a jobseeker's allowance is not payable) there is substituted—

##### “19 Higher-level sanctions

- (1) The amount of an award of a jobseeker's allowance is to be reduced in accordance with this section in the event of a failure by the claimant which is sanctionable under this section.
- (2) It is a failure sanctionable under this section if a claimant—
- (a) through misconduct loses employment as an employed earner;
  - (b) without a good reason voluntarily leaves such employment;
  - (c) without a good reason refuses or fails to apply for, or accept if offered, a situation in any employment which an employment officer has informed him is vacant or about to become vacant;
  - (d) without a good reason neglects to avail himself of a reasonable opportunity of employment;
  - (e) without a good reason fails to participate in any scheme within section 17A(1) which is prescribed for the purposes of this section.
- (3) For the purposes of subsection (2)(b), in such circumstances as may be prescribed, including in particular where a person has been dismissed by his employer by reason of redundancy within the meaning of section 139(1) of the Employment Rights Act 1996 after volunteering or agreeing to be

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so dismissed, a person who might otherwise be treated as having left his employment voluntarily is to be treated as not having left voluntarily.

- (4) Regulations are to provide for—
  - (a) the amount of a reduction under this section;
  - (b) the period for which such a reduction has effect, not exceeding three years in relation to any failure sanctionable under this section.
- (5) Regulations under subsection (4)(b) may in particular provide for the period of a reduction to depend on either or both of the following—
  - (a) the number of failures by the claimant sanctionable under this section;
  - (b) the period between such failures.
- (6) Regulations may provide—
  - (a) for cases in which no reduction is to be made under this section;
  - (b) for a reduction under this section made in relation to an award that is terminated to be applied to any new award made within a prescribed period of the termination.
- (7) During any period for which the amount of a joint-claim jobseeker's allowance is reduced under this section by virtue of a failure by one of the claimants which is sanctionable under this section, the allowance is payable to the other member of the couple.

### 19A Other sanctions

- (1) The amount of an award of a jobseeker's allowance is to be reduced in accordance with this section in the event of a failure by the claimant which is sanctionable under this section.
- (2) It is a failure sanctionable under this section if a claimant—
  - (a) without a good reason fails to comply with regulations under section 8(1) or (1A);
  - (b) without a good reason fails to comply with regulations under section 17A;
  - (c) without a good reason refuses or fails to carry out a jobseeker's direction which was reasonable having regard to his circumstances;
  - (d) without a good reason neglects to avail himself of a reasonable opportunity of a place on a training scheme or employment programme;
  - (e) without a good reason refuses or fails to apply for, or accept if offered, a place on such a scheme or programme which an employment officer has informed him is vacant or about to become vacant;
  - (f) without a good reason gives up a place on such a scheme or programme or fails to attend such a scheme or programme having been given a place on it;
  - (g) through misconduct loses a place on such a scheme or programme.
- (3) But a failure is not sanctionable under this section if it is also sanctionable under section 19.
- (4) Regulations are to provide for—
  - (a) the amount of a reduction under this section;

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- (b) the period for which such a reduction has effect.
- (5) Regulations under subsection (4)(b) may provide that a reduction under this section in relation to any failure is to have effect for—
- (a) a period continuing until the claimant meets a compliance condition specified by the Secretary of State,
  - (b) a fixed period not exceeding 26 weeks which is—
    - (i) specified in the regulations, or
    - (ii) determined in any case by the Secretary of State, or
  - (c) a combination of both.
- (6) In subsection (5)(a) “compliance condition” means—
- (a) a condition that the failure ceases, or
  - (b) a condition relating to—
    - (i) future compliance with a jobseeker's direction or any requirement imposed under section 8(1) or (1A) or 17A of this Act, or
    - (ii) future avoidance of the failures referred to in subsection (2) (d) to (g).
- (7) A compliance condition specified under subsection (5)(a) may be—
- (a) revoked or varied by the Secretary of State;
  - (b) notified to the claimant in such manner as the Secretary of State may determine.
- (8) The period fixed under subsection (5)(b) may in particular depend on either or both of the following—
- (a) the number of failures by the claimant sanctionable under this section;
  - (b) the period between such failures.
- (9) Regulations may provide—
- (a) for cases in which no reduction is to be made under this section;
  - (b) for a reduction under this section made in relation to an award that is terminated to be applied to any new award made within a prescribed period of the termination.
- (10) During any period for which the amount of a joint-claim jobseeker's allowance is reduced under this section by virtue of a failure by one of the claimants which is sanctionable under this section, the allowance is payable to the other member of the couple.
- (11) In this section—
- (a) “jobseeker's direction” means a direction given by an employment officer (in such manner as he thinks fit) with a view to achieving one or both of the following—
    - (i) assisting the claimant to find employment;
    - (ii) improving the claimant's prospects of being employed;
  - (b) “training scheme” and “employment programme” have such meaning as may be prescribed.

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### **19B Claimants ceasing to be available for employment etc**

- (1) Regulations may make provision for reduction of the amount of an award of a jobseeker's allowance other than a joint-claim jobseeker's allowance if the claimant—
  - (a) was previously entitled to such an allowance or was a member of a couple entitled to a joint-claim jobseeker's allowance, and
  - (b) ceased to be so entitled by failing to comply with the condition in section 1(2)(a) or (c) (availability for employment and actively seeking employment).
- (2) Regulations may make provision for reduction of the amount of a joint-claim jobseeker's allowance if one of the claimants—
  - (a) was previously entitled to a jobseeker's allowance other than a joint-claim jobseeker's allowance, and
  - (b) ceased to be so entitled by failing to comply with the condition in section 1(2)(a) or (c).
- (3) Regulations may make provision for reduction of the amount of an award of joint-claim jobseeker's allowance if—
  - (a) the couple were previously entitled to a joint-claim jobseeker's allowance but ceased to be so entitled by either or both of them failing to comply with the condition in section 1(2)(a) or (c), or
  - (b) either member of the couple was a member of another couple previously entitled to such an allowance and that couple ceased to be so entitled by that person failing to comply with the condition in section 1(2)(a) or (c).
- (4) Regulations are to provide for—
  - (a) the amount of a reduction under this section;
  - (b) the period for which such a reduction has effect.
- (5) The period referred to in subsection (4)(b) must not include any period after the end of the period of 13 weeks beginning with the day on which the claimant's previous entitlement ceased.
- (6) Regulations under subsection (4)(b) may in particular provide for the period of a reduction to depend on either or both of the following—
  - (a) the number of occasions on which a claimant's entitlement has ceased as specified in subsection (1), (2) or (3);
  - (b) the period between such occasions.
- (7) Regulations may provide for a reduction under this section made in relation to an award that is terminated to be applied to any new award made within a prescribed period of the termination.
- (8) During any period for which the amount of a joint-claim jobseeker's allowance is reduced under this section by virtue of a failure by one of the claimants to comply with the condition in section 1(2)(a) or (c), the allowance is payable to the other member of the couple.

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### 19C Hardship payments

- (1) Regulations may make provision for the making of payments (“hardship payments”) by way of a jobseeker's allowance to a claimant where—
  - (a) the amount of the claimant's award is reduced under sections 19 to 19B, and
  - (b) the claimant is or will be in hardship.
- (2) Regulations under this section may in particular make provision as to—
  - (a) circumstances in which a claimant is to be treated as being or not being in hardship;
  - (b) matters to be taken into account in determining whether a claimant is or will be in hardship;
  - (c) requirements or conditions to be met by a claimant in order to receive hardship payments;
  - (d) the amount or rate of hardship payments;
  - (e) the period for which hardship payments may be made;
  - (f) whether hardship payments are recoverable.”
- (2) In section 37 of that Act (parliamentary control), in subsection (1), before paragraph (b) there is inserted—

“(ab) the first regulations to be made under sections 19 to 19C;”.
- (3) In Schedule 1 to that Act—
  - (a) in the heading preceding paragraph 14B for “or just cause” there is substituted “reason ”;
  - (b) before paragraph 14B there is inserted—

“14AA  
For any purpose of this Act regulations may provide for—

    - (a) circumstances in which a person is to be treated as having or not having a good reason for an act or omission;
    - (b) matters which are or are not to be taken into account in determining whether a person has a good reason for an act or omission.”;
  - (c) in paragraph 14B, in sub-paragraph (1)—
    - (i) for “this Act” there is substituted “ paragraph 14AA ”;
    - (ii) for “good cause or just cause“ there is substituted “ a good reason ”.
- (4) In Schedule 3 to the Social Security Act 1998 (decisions against which an appeal lies), in paragraph 3, paragraphs (d) and (da) are repealed.

#### Commencement Information

- I2** S. 46(1) in force at 10.6.2012 for specified purposes by S.I. 2012/1246, art. 2(3)(b)  
**I3** S. 46(2) in force at 10.6.2012 by S.I. 2012/1246, art. 2(3)(c)(i)  
**I4** S. 46(3) in force at 10.6.2012 for specified purposes by S.I. 2012/1246, art. 2(3)(c)(ii)

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## 47 Procedure for regulation-making powers

In section 37 of the Jobseekers Act 1995 (parliamentary control), in subsection (1)(c) (regulations subject to affirmative procedure), “6, 7,” is repealed.

### Commencement Information

**I5** S. 47 in force at 20.3.2012 by S.I. 2012/863, art. 2(1)(a)

VALID FROM 22/10/2012

## 48 Consequential amendments

Schedule 7 contains consequential amendments relating to sections 44 to 46.

VALID FROM 25/02/2013

### *Claimant responsibilities after introduction of universal credit*

## 49 Claimant responsibilities for jobseeker's allowance

- (1) The Jobseekers Act 1995 is amended as follows.
- (2) In section 1(2) (conditions of entitlement), paragraphs (a) and (c) are repealed.
- (3) For sections 6 to 10 (and the italic heading preceding section 6) there is substituted—

### *“Work-related requirements*

#### **6 Work-related requirements**

- (1) The following provisions of this Act provide for the Secretary of State to impose work-related requirements with which claimants must comply for the purposes of this Act.
- (2) In this Act “work-related requirement” means—
  - (a) a work-focused interview requirement (see section 6B);
  - (b) a work preparation requirement (see section 6C);
  - (c) a work search requirement (see section 6D);
  - (d) a work availability requirement (see section 6E).

#### **6A Claimant commitment**

- (1) A claimant commitment is a record of a claimant's responsibilities in relation to an award of a jobseeker's allowance.
- (2) A claimant commitment is to be prepared by the Secretary of State and may be reviewed and updated as the Secretary of State thinks fit.

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- (3) A claimant commitment is to be in such form as the Secretary of State thinks fit.
- (4) A claimant commitment is to include—
  - (a) a record of the requirements that the claimant must comply with under this Act (or such of them as the Secretary of State considers it appropriate to include),
  - (b) any prescribed information, and
  - (c) any other information the Secretary of State considers it appropriate to include.
- (5) For the purposes of this Act a claimant accepts a claimant commitment if, and only if, the claimant accepts the most up-to-date version of it in such manner as may be prescribed.

#### **6B Work-focused interview requirement**

- (1) In this Act a “work-focused interview requirement” is a requirement that a claimant participate in one or more work-focused interviews as specified by the Secretary of State.
- (2) A work-focused interview is an interview for prescribed purposes relating to work or work preparation.
- (3) The purposes which may be prescribed under subsection (2) include in particular that of making it more likely in the opinion of the Secretary of State that the claimant will obtain paid work (or more paid work or better-paid work).
- (4) The Secretary of State may specify how, when and where a work-focused interview is to take place.

#### **6C Work preparation requirement**

- (1) In this Act a “work preparation requirement” is a requirement that a claimant take particular action specified by the Secretary of State for the purpose of making it more likely in the opinion of the Secretary of State that the claimant will obtain paid work (or more paid work or better-paid work).
- (2) The Secretary of State may under subsection (1) specify the time to be devoted to any particular action.
- (3) Action which may be specified under subsection (1) includes in particular—
  - (a) attending a skills assessment;
  - (b) improving personal presentation;
  - (c) participating in training;
  - (d) participating in an employment programme;
  - (e) undertaking work experience or a work placement;
  - (f) developing a business plan;
  - (g) any action prescribed for the purpose in subsection (1).

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### **6D Work search requirement**

- (1) In this Part a “work search requirement” is a requirement that a claimant take—
  - (a) all reasonable action, and
  - (b) any particular action specified by the Secretary of State,for the purpose of obtaining paid work (or more paid work or better-paid work).
- (2) The Secretary of State may under subsection (1)(b) specify the time to be devoted to any particular action.
- (3) Action which may be specified under subsection (1)(b) includes in particular—
  - (a) carrying out work searches;
  - (b) making applications;
  - (c) creating and maintaining an online profile;
  - (d) registering with an employment agency;
  - (e) seeking references;
  - (f) any other action prescribed for the purpose in subsection (1).
- (4) Regulations may impose limitations on a work search requirement by reference to the work to which it relates; and the Secretary of State may in any particular case specify further such limitations on such a requirement.
- (5) A limitation under subsection (4) may in particular be by reference to—
  - (a) work of a particular nature,
  - (b) work with a particular level of remuneration,
  - (c) work in particular locations, or
  - (d) work available for a certain number of hours per week or at particular times,and may be indefinite or for a particular period.

### **6E Work availability requirement**

- (1) In this Act a “work availability requirement” is a requirement that a claimant be available for work.
- (2) For the purposes of this section “available for work” means able and willing immediately to take up paid work (or more paid work or better-paid work).
- (3) Regulations may impose limitations on a work availability requirement by reference to the work to which it relates; and the Secretary of State may in any particular case specify further such limitations on such a requirement.
- (4) A limitation under subsection (3) may in particular be by reference to—
  - (a) work of a particular nature,
  - (b) work with a particular level of remuneration,
  - (c) work in particular locations, or
  - (d) work available for a certain number of hours per week or at particular times,



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and may be indefinite or for a particular period.

- (5) Regulations may for the purposes of subsection (2) define what is meant by able and willing immediately to take up work.

#### **6F Imposition of work-related requirements**

- (1) The Secretary of State must, except in prescribed circumstances, impose on a claimant—
- (a) a work search requirement, and
  - (b) a work availability requirement.
- (2) The Secretary of State may, subject to this Act, impose either or both of the following on a claimant—
- (a) a work-focused interview requirement;
  - (b) a work preparation requirement.

#### **6G Connected requirements**

- (1) The Secretary of State may require a claimant to participate in an interview for any purpose relating to—
- (a) the imposition of a work-related requirement on the claimant;
  - (b) verifying the claimant's compliance with a work-related requirement;
  - (c) assisting the claimant to comply with a work-related requirement.
- (2) The Secretary of State may specify how, when and where such an interview is to take place.
- (3) The Secretary of State may, for the purpose of verifying the claimant's compliance with a work-related requirement, require a claimant to—
- (a) provide to the Secretary of State information and evidence specified by the Secretary of State in a manner so specified;
  - (b) confirm compliance in a manner so specified.
- (4) The Secretary of State may require a claimant to report to the Secretary of State any specified changes in their circumstances which are relevant to—
- (a) the imposition of work-related requirements on the claimant;
  - (b) the claimant's compliance with a work-related requirement.

#### **6H Imposition of work-related and connected requirements: supplementary**

- (1) Regulations may make provision—
- (a) where the Secretary of State may impose a requirement under the preceding provisions of this Act, as to when the requirement must or must not be imposed;
  - (b) where the Secretary of State may specify any action to be taken in relation to a requirement under the preceding provisions of this Act, as to what action must or must not be specified;

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(c) where the Secretary of State may specify any other matter in relation to a such requirement, as to what must or must not be specified in respect of that matter.

- (2) Where the Secretary of State may impose a work-focused interview requirement, or specify a particular action under section 6C(1) or 6D(1)(b), the Secretary of State must have regard to such matters as may be prescribed.
- (3) Where the Secretary of State may impose a requirement under the preceding provisions of this Act, or specify any action to be taken in relation to such a requirement, the Secretary of State may revoke or change what has been imposed or specified.
- (4) Notification of a requirement imposed under the preceding provisions of this Act (or any change to or revocation of such a requirement) is, if not included in the claimant commitment, to be in such manner as the Secretary of State may determine.
- (5) Regulations must make provision to secure that, in prescribed circumstances, where a claimant has recently been a victim of domestic violence—
  - (a) a requirement imposed on the claimant under the preceding provisions of this Act ceases to have effect for a period of 13 weeks, and
  - (b) the Secretary of State may not impose any other requirement on the claimant during that period.
- (6) For the purposes of subsection (5)—
  - (a) “domestic violence“ has such meaning as may be prescribed;
  - (b) “victim of domestic violence” means a person on or against whom domestic violence is inflicted or threatened (and regulations under subsection (5) may prescribe circumstances in which a person is to be treated as being or not being a victim of domestic violence);
  - (c) a person has recently been a victim of domestic violence if a prescribed period has not expired since the violence was inflicted or threatened.

### **6I Compliance with work-related and connected requirements**

Regulations may make provision as to circumstances in which a claimant is to be treated as having—

- (a) complied with or not complied with any requirement imposed under the preceding provisions of this Act or any aspect of such a requirement, or
- (b) taken or not taken any particular action specified by the Secretary of State in relation to such a requirement.

### **6J Higher-level sanctions**

- (1) The amount of an award of jobseeker's allowance is to be reduced in accordance with this section in the event of a failure by a claimant which is sanctionable under this section.
- (2) It is a failure sanctionable under this section if a claimant—

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- (a) fails for no good reason to comply with a requirement imposed by the Secretary of State under a work preparation requirement to undertake a work placement of a prescribed description;
  - (b) fails for no good reason to comply with a requirement imposed by the Secretary of State under a work search requirement to apply for a particular vacancy for paid work;
  - (c) fails for no good reason to comply with a work availability requirement by not taking up an offer of paid work;
  - (d) by reason of misconduct, or voluntarily and for no good reason, ceases paid work or loses pay.
- (3) It is a failure sanctionable under this section if, at any time before making the claim by reference to which the award is made, the claimant—
- (a) for no good reason failed to take up an offer of paid work, or
  - (b) by reason of misconduct, or voluntarily and for no good reason, ceased paid work or lost pay.
- (4) For the purposes of subsections (2) and (3) regulations may provide—
- (a) for circumstances in which ceasing to work or losing pay is to be treated as occurring or not occurring by reason of misconduct or voluntarily;
  - (b) for loss of pay below a prescribed level to be disregarded.
- (5) Regulations are to specify—
- (a) the amount of a reduction under this section;
  - (b) the period for which such a reduction has effect, not exceeding three years in relation to any failure sanctionable under this section.
- (6) Regulations under subsection (5)(b) may in particular provide for the period of a reduction to depend on either or both of the following—
- (a) the number of failures by the claimant sanctionable under this section;
  - (b) the period between such failures.
- (7) Regulations may provide—
- (a) for cases in which no reduction is to be made under this section;
  - (b) for a reduction under this section made in relation to an award that is terminated to be applied to any new award made within a prescribed period of the termination;
  - (c) for the termination or suspension of a reduction under this section.

### **6K Other sanctions**

- (1) The amount of an award of a jobseeker's allowance is to be reduced in accordance with this section in the event of a failure by a claimant which is sanctionable under this section.
- (2) It is a failure sanctionable under this section if a claimant—
- (a) fails for no good reason to comply with a work-related requirement;
  - (b) fails for no good reason to comply with a requirement under section 6G.

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- (3) But a failure by a claimant is not sanctionable under this section if it is also a failure sanctionable under section 6J.
- (4) Regulations must specify—
  - (a) the amount of a reduction under this section;
  - (b) the period for which such a reduction has effect.
- (5) Regulations under subsection (4)(b) may provide that a reduction under this section in relation to any failure is to have effect for—
  - (a) a period continuing until the claimant meets a compliance condition specified by the Secretary of State,
  - (b) a fixed period not exceeding 26 weeks which is—
    - (i) specified in the regulations, or
    - (ii) determined in any case by the Secretary of State, or
  - (c) a combination of both.
- (6) In subsection (5)(a) “compliance condition” means—
  - (a) a condition that the failure ceases, or
  - (b) a condition relating to future compliance with a work-related requirement or a requirement under section 6G.
- (7) A compliance condition specified under subsection (5)(a) may be—
  - (a) revoked or varied by the Secretary of State;
  - (b) notified to the claimant in such manner as the Secretary of State may determine.
- (8) A period fixed under subsection (5)(b) may in particular depend on either or both the following—
  - (a) the number of failures by the claimant sanctionable under this section;
  - (b) the period between such failures.
- (9) Regulations may provide—
  - (a) for cases in which no reduction is to be made under this section;
  - (b) for a reduction under this section made in relation to an award that is terminated to be applied to any new award made within a prescribed period of the termination;
  - (c) for the termination or suspension of a reduction under this section.

#### **6L Delegation and contracting out**

- (1) The functions of the Secretary of State under sections 6 to 6I may be exercised by, or by the employees of, such person as the Secretary of State may authorise for the purpose (an “authorised person”).
- (2) An authorisation given by virtue of this section may authorise the exercise of a function—
  - (a) wholly or to a limited extent;
  - (b) generally or in particular cases or areas;
  - (c) unconditionally or subject to conditions.

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- (3) An authorisation under this section—
- (a) may specify its duration;
  - (b) may be varied or revoked at any time by the Secretary of State;
  - (c) does not prevent the Secretary of State or another person from exercising the function to which the authorisation relates.
- (4) Anything done or omitted to be done by or in relation to an authorised person (or an employee of that person) in, or in connection with, the exercise or purported exercise of the function concerned is to be treated for all purposes as done or omitted to be done by or in relation to the Secretary of State or (as the case may be) an officer of the Secretary of State.
- (5) Subsection (4) does not apply—
- (a) for the purposes of so much of any contract made between the authorised person and the Secretary of State as relates to the exercise of the function, or
  - (b) for the purposes of any criminal proceedings brought in respect of anything done or omitted to be done by the authorised person (or an employee of that person).
- (6) Where—
- (a) the authorisation of an authorised person is revoked, and
  - (b) at the time of the revocation so much of any contract made between the authorised person and the Secretary of State as relates to the exercise of the function is subsisting,
- the authorised person is entitled to treat the contract as repudiated by the Secretary of State (and not as frustrated by reason of the revocation).”
- (4) In section 29 (pilot schemes), in subsection (8), for the words from “ascertaining” to the end there is substituted “testing the extent to which the provision made by the regulations is likely to promote—
- (a) people remaining in work, or
  - (b) people obtaining or being able to obtain work (or more work or better-paid work).”
- (5) In section 35 (interpretation), in subsection (1), at the appropriate places there is inserted—
- ““work availability requirement” has the meaning given by section 6E;”;
- ““work preparation requirement” has the meaning given by section 6C;”;
- ““work search requirement” has the meaning given by section 6D;”;
- ““work-focused interview requirement” has the meaning given by section 6B;”;
- ““work-related requirement” has the meaning given by section 6;”.
- (6) In section 37 (parliamentary control), in subsection (1), after paragraph (a) there is inserted—
- “(aa) the first regulations to be made under section 6J or 6K;”.

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## CHAPTER 2

### EMPLOYMENT AND SUPPORT ALLOWANCE

#### *Conditions of entitlement*

#### **50 Dual entitlement**

- (1) In section 1 of the Welfare Reform Act 2007 (employment and support allowance), after subsection (6) there is inserted—

“(6A) In subsection (3)(f), in relation to a contributory allowance, the reference to a couple entitled to a joint-claim jobseeker's allowance does not include a couple so entitled by virtue of regulations under paragraph 8A of Schedule 1 to the Jobseekers Act 1995.”

- (2) In a case where—

- (a) an award of an employment and support allowance is made to a person in respect of any period of time before the coming into force of subsection (1), and
- (b) the person was not entitled to an employment and support allowance in relation to that period but would have been had subsection (1) been in force in relation to that period,

subsection (1) shall be regarded as having been in force in relation to that period.

#### **51 Period of entitlement to contributory allowance**

- (1) After section 1 of the Welfare Reform Act 2007 there is inserted—

##### **“1A Duration of contributory allowance**

- (1) The period for which a person is entitled to a contributory allowance by virtue of the first and second conditions set out in Part 1 of Schedule 1 shall not exceed, in the aggregate, the relevant maximum number of days in any period for which his entitlement is established by reference (under the second condition set out in Part 1 of Schedule 1) to the same two tax years.

- (2) In subsection (1) the “relevant maximum number of days” is—

- (a) 365 days, or
- (b) if the Secretary of State by order specifies a greater number of days, that number of days.

- (3) The fact that a person's entitlement to a contributory allowance has ceased as a result of subsection (1) does not prevent his being entitled to a further such allowance if—

- (a) he satisfies the first and second conditions set out in Part 1 of Schedule 1, and
- (b) the two tax years by reference to which he satisfies the second condition include at least one year which is later than the second of the two years by reference to which (under the second condition) his previous entitlement was established.

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**Changes to legislation:** Welfare Reform Act 2012 is up to date with all changes known to be in force on or before 25 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (4) The period for which a person is entitled to a contributory allowance by virtue of the third condition set out in Part 1 of Schedule 1 (youth) shall not exceed—
- (a) 365 days, or
  - (b) if the Secretary of State by order specifies a greater number of days, that number of days.
- (5) In calculating for the purposes of subsection (1) or (4) the length of the period for which a person is entitled to a contributory allowance, the following are not to be counted—
- (a) days in which the person is a member of the support group,
  - (b) days not falling within paragraph (a) in respect of which the person is entitled to the support component referred to in section 2(1)(b), and
  - (c) days in the assessment phase, where the days immediately following that phase fall within paragraph (a) or (b).
- (6) In calculating for the purposes of subsection (1) or (4) the length of the period for which a person is entitled to a contributory allowance, days occurring before the coming into force of this section are to be counted (as well as those occurring afterwards).”
- (2) In section 25 of that Act (regulations)—
- (a) in the heading, after “regulations” there is inserted “and orders”;
  - (b) in subsection (1), after “regulations” there is inserted “or an order”.
- (3) In section 26 of that Act (Parliamentary control), at the end there is inserted—
- “(3) A statutory instrument containing an order under section 1A shall be subject to annulment in pursuance of a resolution of either House of Parliament.”
- (4) In Schedule 4 to that Act (transition relating to Part 1), in paragraph 7(2), at the end there is inserted—
- “(f) make provision modifying the application of section 1A in relation to awards of an employment and support allowance to persons previously entitled to existing awards.”

#### Commencement Information

- I6** S. 51 in force at 20.3.2012 for specified purposes by S.I. 2012/863, art. 2(1)(b)  
**I7** S. 51 in force at 1.5.2012 in so far as not already in force by S.I. 2012/863, art. 2(2)(a)

## 52 Further entitlement after time-limiting

- (1) After section 1A of the Welfare Reform Act 2007 (as inserted by section 51 above) there is inserted—

### “1B Further entitlement after time-limiting

- (1) Where a person's entitlement to a contributory allowance has ceased as a result of section 1A (1) or (4) but—
- (a) the person has not at any subsequent time ceased to have (or to be treated as having) limited capability for work,

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- (b) the person satisfies the basic conditions, and
- (c) the person has (or is treated as having) limited capability for work-related activity,

the claimant is entitled to an employment and support allowance by virtue of this section.

- (2) An employment and support allowance entitlement to which is based on this section is to be regarded as a contributory allowance for the purposes of this Part.”

- (2) In section 1 of that Act (employment and support allowance), in the definition of “contributory allowance” in subsection (7), after “subsection (2)(a)” there is inserted “(and see section 1B(2))”.

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**Commencement Information**

**18** S. 52 in force at 1.5.2012 by S.I. 2012/863, art. 2(2)(b)

### 53 Condition relating to youth

In section 1 of the Welfare Reform Act 2007 (employment and support allowance), after subsection (3) there is inserted—

- “(3A) After the coming into force of this subsection no claim may be made for an employment and support allowance by virtue of the third condition set out in Part 1 of Schedule 1 (youth).”

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**Commencement Information**

**19** S. 53 in force at 1.5.2012 by S.I. 2012/863, art. 2(2)(c)

VALID FROM 26/11/2012

*Claimant responsibilities for interim period*

VALID FROM 25/02/2013

### 54 Claimant commitment for employment and support allowance

- (1) The Welfare Reform Act 2007 is amended as follows.
- (2) In section 1(3) (employment and support allowance: basic conditions) after paragraph (a) there is inserted—
  - “(aa) has accepted a claimant commitment.”
- (3) After section 1B (as inserted by section 52 above) there is inserted—



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### “1C Claimant commitment

- (1) For the purposes of this Part a “claimant commitment” is a record of the claimant's responsibilities in relation to an award of an employment and support allowance.
- (2) A claimant commitment is to be prepared by the Secretary of State and may be reviewed and updated as the Secretary of State thinks fit.
- (3) A claimant commitment is to be in such form as the Secretary of State thinks fit.
- (4) A claimant commitment is to include—
  - (a) any prescribed information, and
  - (b) any other information the Secretary of State considers it appropriate to include.
- (5) For the purposes of this Part a claimant accepts a claimant commitment if, and only if, the claimant accepts the most up-to-date version of it in such manner as may be prescribed.
- (6) Regulations may provide that, in prescribed circumstances, a claimant is to be treated as having satisfied the condition mentioned in section 1(3)(aa).”
- (4) In section 15(2)(b) (directions about work-related activity) for the words from “by” to “14” there is substituted “ in such manner as the Secretary of State thinks fit ”.
- (5) In section 16(1) (contracting out) before paragraph (a) there is inserted—

“(za) any function under section 1C in relation to a claimant commitment;”.
- (6) In Schedule 2 (supplementary provisions) after paragraph 4 there is inserted—

“4A Regulations may prescribe circumstances in which a person may be entitled to employment and support allowance without having accepted a claimant commitment.”
- (7) In section 31(2) of the Welfare Reform Act 2009 (action plans: well-being of children), in subsection (5) inserted into section 14 of the Welfare Reform Act 2007, after “preparing any” there is inserted “ claimant commitment or ”.

VALID FROM 03/12/2012

### 55 Work experience etc

In section 13 of the Welfare Reform Act 2007 (work-related activity), after subsection (7) there is inserted—

- “(8) The reference to activity in subsection (7) includes work experience or a work placement.”

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## 56 Hardship payments

In the Welfare Reform Act 2007 after section 16 there is inserted—

### “16A Hardship payments

- (1) Regulations may make provision for the making of payments (“hardship payments”) by way of an employment and support allowance to a person where—
  - (a) the amount otherwise payable to the person in respect of an employment and support allowance is reduced by virtue of regulations under section 11(3), 12(3) or 13(3), and
  - (b) the person is or will be in hardship.
- (2) Regulations under this section may in particular make provision as to—
  - (a) circumstances in which a person is to be treated as being or not being in hardship;
  - (b) matters to be taken into account in determining whether a person is or will be in hardship;
  - (c) requirements or conditions to be met by a person in order to receive hardship payments;
  - (d) the amount or rate of hardship payments;
  - (e) the period for which hardship payments may be made.”

VALID FROM 25/02/2013

### *Claimant responsibilities after introduction of universal credit*

## 57 Claimant responsibilities for employment and support allowance

- (1) The Welfare Reform Act 2007 is amended as follows.
- (2) For sections 11 to 16 (and the italic heading preceding section 11) there is substituted—

### *“Work-related requirements*

#### **11 Work-related requirements**

- (1) The following provisions of this Part provide for the Secretary of State to impose work-related requirements with which persons entitled to an employment and support allowance must comply for the purposes of this Part.
- (2) In this Part “work-related requirement” means—
  - (a) a work-focused interview requirement (see section 11B);
  - (b) a work preparation requirement (see section 11C).
- (3) The work-related requirements which may be imposed on a person depend on which of the following groups the person falls into—

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- (a) persons subject to no work-related requirements (see section 11D);
- (b) persons subject to work-focused interview requirement only (see section 11E);
- (c) persons subject to work-focused interview and work preparation requirements (see section 11F).

### **11A Claimant commitment**

- (1) A claimant commitment is a record of the responsibilities of a person entitled to an employment and support allowance in relation to the award of the allowance.
- (2) A claimant commitment is to be prepared by the Secretary of State and may be reviewed and updated as the Secretary of State thinks fit.
- (3) A claimant commitment is to be in such form as the Secretary of State thinks fit.
- (4) A claimant commitment is to include—
  - (a) a record of the requirements that the person must comply with under this Part (or such of them as the Secretary of State considers it appropriate to include),
  - (b) any prescribed information, and
  - (c) any other information the Secretary of State considers it appropriate to include.
- (5) For the purposes of this Part a person accepts a claimant commitment if, and only if, the claimant accepts the most up-to-date version of it in such manner as may be prescribed.

### **11B Work-focused interview requirement**

- (1) In this Part a “work-focused interview requirement” is a requirement that a person participate in one or more work-focused interviews as specified by the Secretary of State.
- (2) A work-focused interview is an interview for prescribed purposes relating to work or work preparation.
- (3) The purposes which may be prescribed under subsection (2) include in particular that of making it more likely in the opinion of the Secretary of State that the person will obtain paid work (or more paid work or better-paid work).
- (4) The Secretary of State may specify how, when and where a work-focused interview is to take place.

### **11C Work preparation requirement**

- (1) In this Part a “work preparation requirement” is a requirement that a person take particular action specified by the Secretary of State for the purpose of making it more likely in the opinion of the Secretary of State that the person will obtain paid work (or more paid work or better-paid work).

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- (2) The Secretary of State may under subsection (1) specify the time to be devoted to any particular action.
- (3) Action which may be specified under subsection (1) includes in particular—
  - (a) attending a skills assessment;
  - (b) improving personal presentation;
  - (c) participating in training;
  - (d) participating in an employment programme;
  - (e) undertaking work experience or a work placement;
  - (f) developing a business plan;
  - (g) any action prescribed for the purpose in subsection (1).
- (4) The action which may be specified under subsection (1) includes taking part in a work-focused health-related assessment.
- (5) In subsection (4) “work-focused health-related assessment” means an assessment by a health care professional approved by the Secretary of State which is carried out for the purpose of assessing—
  - (a) the extent to which the person's capability for work may be improved by taking steps in relation to their physical or mental condition, and
  - (b) such other matters relating to their physical or mental condition and the likelihood of their obtaining or remaining in work or being able to do so as may be prescribed.
- (6) In subsection (5) “health care professional” means—
  - (a) a registered medical practitioner,
  - (b) a registered nurse,
  - (c) an occupational therapist or physiotherapist registered with a regulatory body established by an Order in Council under section 60 of the Health Act 1999, or
  - (d) a member of such other profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002 as may be prescribed.

### **11D Persons subject to no work-related requirements**

- (1) The Secretary of State may not impose any work-related requirement on a person falling within this section.
- (2) A person falls within this section if—
  - (a) the person has limited capability for work and work-related activity,
  - (b) the person has regular and substantial caring responsibilities for a severely disabled person,
  - (c) the person is a single person responsible for a child under the age of 1,
  - (d) the person is of a prescribed description.
- (3) Where a person falls within this section, any work-related requirement previously applying to the person ceases to have effect.
- (4) In this section—

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“regular and substantial caring responsibilities” has such meaning as may be prescribed;

“severely disabled“ has such meaning as may be prescribed.

### **11E Persons subject to work-focused interview requirement only**

- (1) A person falls within this section if—
  - (a) the person is a single person responsible for a child who is aged at least 1 and is under a prescribed age (which may not be less than 3), or
  - (b) the person is of a prescribed description.
- (2) The Secretary of State may, subject to this Part, impose a work-focused interview requirement on a person entitled to an employment and support allowance who falls within this section.
- (3) The Secretary of State may not impose a work preparation requirement on a person falling within this section (and, where a person falls within this section, a work preparation requirement previously applying to the person ceases to have effect).

### **11F Persons subject to work preparation and work-focused interview requirement**

- (1) A person who does not fall within section 11D or 11E falls within this section.
- (2) The Secretary of State may, subject to this Part, impose a work preparation requirement or work-focused interview requirement on a person entitled to an employment and support allowance who falls within this section.

### **11G Connected requirements**

- (1) The Secretary of State may require a person entitled to an employment and support allowance to participate in an interview for any purpose relating to—
  - (a) the imposition of a work-related requirement on the person;
  - (b) verifying the person's compliance with a work-related requirement;
  - (c) assisting the person to comply with a work-related requirement.
- (2) The Secretary of State may specify how, when and where such an interview is to take place.
- (3) The Secretary of State may, for the purpose of verifying a person's compliance with a work-related requirement, require the person to—
  - (a) provide to the Secretary of State information and evidence specified by the Secretary of State in a manner so specified;
  - (b) confirm compliance in a manner so specified.
- (4) The Secretary of State may require a person to report to the Secretary of State any specified changes in their circumstances which are relevant to—
  - (a) the imposition of work-related requirements on the person;
  - (b) the person's compliance with a work-related requirement.

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### 11H Imposition of requirements

- (1) Regulations may make provision—
  - (a) where the Secretary of State may impose a requirement under this Part, as to when the requirement must or must not be imposed;
  - (b) where the Secretary of State may specify any action to be taken in relation to a requirement under this Part, as to what action must or must not be specified;
  - (c) where the Secretary of State may specify any other matter in relation to a requirement under this Part, as to what must or must not be specified in respect of that matter.
- (2) Where the Secretary of State may impose a work-focused interview requirement, or specify a particular action under section 11C(1), the Secretary of State must have regard to such matters as may be prescribed.
- (3) Where the Secretary of State may impose a requirement under this Part, or specify any action to be taken in relation to such a requirement, the Secretary of State may revoke or change what has been imposed or specified.
- (4) Notification of a requirement imposed under this Part (or any change to or revocation of such a requirement) is, if not included in the claimant commitment, to be in such manner as the Secretary of State may determine.
- (5) Regulations must make provision to secure that, in prescribed circumstances, where a person has recently been a victim of domestic violence—
  - (a) a requirement imposed on that person under this Part ceases to have effect for a period of 13 weeks, and
  - (b) the Secretary of State may not impose any other requirement on that person during that period.
- (6) For the purposes of subsection (5)—
  - (a) “domestic violence“ has such meaning as may be prescribed;
  - (b) “victim of domestic violence” means a person on or against whom domestic violence is inflicted or threatened (and regulations under subsection (5) may prescribe circumstances in which a person is to be treated as being or not being a victim of domestic violence);
  - (c) a person has recently been a victim of domestic violence if a prescribed period has not expired since the violence was inflicted or threatened.

### 11I Compliance with requirements

Regulations may make provision as to circumstances in which a person is to be treated as having—

- (a) complied with or not complied with any requirement imposed under this Part or any aspect of such a requirement, or
- (b) taken or not taken any particular action specified by the Secretary of State in relation to such a requirement.

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### 11J Sanctions

- (1) The amount of an award of an employment and support allowance is to be reduced in accordance with this section in the event of a failure by a person which is sanctionable under this section.
- (2) It is a failure sanctionable under this section if a person—
  - (a) fails for no good reason to comply with a work-related requirement;
  - (b) fails for no good reason to comply with a requirement under section 11G.
- (3) Regulations are to specify—
  - (a) the amount of a reduction under this section, and
  - (b) the period for which such a reduction has effect.
- (4) Regulations under subsection (3)(b) may provide that a reduction under this section in relation to any failure is to have effect for—
  - (a) a period continuing until the person meets a compliance condition specified by the Secretary of State,
  - (b) a fixed period not exceeding 26 weeks which is—
    - (i) specified in the regulations, or
    - (ii) determined in any case by the Secretary of State, or
  - (c) a combination of both.
- (5) In subsection (4)(a) “compliance condition” means—
  - (a) a condition that the failure ceases, or
  - (b) a condition relating to future compliance with a work-related requirement or a requirement under section 11G.
- (6) A compliance condition specified under subsection (4)(a) may be—
  - (a) revoked or varied by the Secretary of State;
  - (b) notified to the person in such manner as the Secretary of State may determine.
- (7) A period fixed under subsection (4)(b) may in particular depend on either or both the following—
  - (a) the number of failures by the person sanctionable under this section;
  - (b) the period between such failures.
- (8) Regulations may provide—
  - (a) for cases in which no reduction is to be made under this section;
  - (b) for a reduction under this section made in relation to an award that is terminated to be applied to any new award made within a prescribed period of the termination;
  - (c) for the termination or suspension of a reduction under this section.

### 11K Delegation and contracting out

- (1) The functions of the Secretary of State under sections 11 to 11I may be exercised by, or by the employees of, such person as the Secretary of State may authorise for the purpose (an “authorised person”).

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- (2) An authorisation given by virtue of this section may authorise the exercise of a function—
- (a) wholly or to a limited extent;
  - (b) generally or in particular cases or areas;
  - (c) unconditionally or subject to conditions.
- (3) An authorisation under this section—
- (a) may specify its duration;
  - (b) may be varied or revoked at any time by the Secretary of State;
  - (c) does not prevent the Secretary of State or another person from exercising the function to which the authorisation relates.
- (4) Anything done or omitted to be done by or in relation to an authorised person (or an employee of that person) in, or in connection with, the exercise or purported exercise of the function concerned is to be treated for all purposes as done or omitted to be done by or in relation to the Secretary of State or (as the case may be) an officer of the Secretary of State.
- (5) Subsection (4) does not apply—
- (a) for the purposes of so much of any contract made between the authorised person and the Secretary of State as relates to the exercise of the function, or
  - (b) for the purposes of any criminal proceedings brought in respect of anything done or omitted to be done by the authorised person (or an employee of that person).
- (6) Where—
- (a) the authorisation of an authorised person is revoked, and
  - (b) at the time of the revocation so much of any contract made between the authorised person and the Secretary of State as relates to the exercise of the function is subsisting,
- the authorised person is entitled to treat the contract as repudiated by the Secretary of State (and not as frustrated by reason of the revocation).”
- (3) In section 19 (pilot schemes), in subsection (3), for the words from “ascertaining” to the end there is substituted “testing the extent to which the provision made by the regulations is likely to promote—
- (a) people remaining in work, or
  - (b) people obtaining or being able to obtain work (or more work or better-paid work).”
- (4) In section 24 (interpretation), in subsection (1)—
- (a) at the appropriate places there is inserted—
    - ““child” means a person under the age of 16;”;
    - ““single person” means an individual who is not a member of a couple (within the meaning of Part 1 of the Welfare Reform Act 2012);”;
    - ““work” has such meaning as may be prescribed;”;



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- ““work-focused interview requirement” has the meaning given by section 11B;”;
- ““work preparation requirement” has the meaning given by section 11C;”;
- ““work-related requirement” has the meaning given by section 11;”;
- (b) for the definition of “work-related activity” there is substituted—
- ““work-related activity”, in relation to a person, means activity which makes it more likely that the person will obtain or remain in work or be able to do so;”.
- (5) In section 25 (regulations), in subsection (6), for “to 15” there is substituted “ to 11J”.
- (6) In section 26 (parliamentary control), in subsection (1), after paragraph (a) there is inserted—
- “(aa) the first regulations under section 11D(2)(d) or 11J;”.
- (7) In Schedule 2 (supplementary)—
- (a) in the heading preceding paragraph 10A, for “cause” there is substituted “ reason ”;
- (b) before paragraph 10A there is inserted—
- “10ZA Regulations may for any purpose of this Part provide for—
- (a) circumstances in which a person is to be treated as having or not having a good reason for an act or omission;
- (b) matters which are or are not to be taken into account in determining whether a person has a good reason for an act or omission.”;
- (c) in paragraph 10A (good cause), in sub-paragraph (1)—
- (i) for “section 11, 12 or 13“ there is substituted “ paragraph 10ZA ”;
- (ii) for “good cause” there is substituted “ a good reason ”.
- (8) In that Schedule, after paragraph 10A there is inserted—
- “Responsibility for children**
- 10B Regulations may for any purpose of this Part specify circumstances in which a person is or is not responsible for a child.”
- (9) In that Schedule, in paragraph 13 (information), for “13” there is substituted “ 11K ”.

## CHAPTER 3

### INCOME SUPPORT

#### 58 Entitlement of lone parents to income support etc

(1 The Welfare Reform Act 2009 is amended as follows.

**Status:** Point in time view as at 10/06/2012. This version of this Act contains provisions that are not valid for this point in time.

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- (2) In section 3(1), in paragraph (b) of subsection (1A) to be inserted into section 124 of the Social Security Contributions and Benefits Act 1992 (lone parents with a child under 7 to be included in regulations as a category of person entitled to income support), for “7” there is substituted “ 5 ”.
- (3) In section 8 (parliamentary procedure for regulations imposing a requirement on lone parents with a child under 7 to undertake work-related activity), in the heading and in subsection (1), for “7” there is substituted “ 5 ”.

#### Commencement Information

**I10** S. 58(1)(2) in force at 20.3.2012 by S.I. 2012/863, art. 2(1)(c)

PROSPECTIVE

### 59 Claimant commitment for income support

- (1) The Social Security Contributions and Benefits Act 1992 is amended as follows.
- (2) Section 124 (income support) is amended as follows—
- (a) in subsection (1), after paragraph (e) there is inserted—
 

“(ea) he has accepted a claimant commitment;”;
  - (b) after subsection (1B) there is inserted—
 

“(1C) Regulations may prescribe circumstances in which a person may be entitled to income support without having accepted a claimant commitment.”
- (3) After section 124 there is inserted—

#### “124A Claimant commitment

- (1) For the purposes of this Part a “claimant commitment” is a record of the claimant's responsibilities in relation to an award of income support.
- (2) A claimant commitment is to be prepared by the Secretary of State and may be reviewed and updated as the Secretary of State thinks fit.
- (3) A claimant commitment is to be in such form as the Secretary of State thinks fit.
- (4) A claimant commitment is to include—
  - (a) any prescribed information, and
  - (b) any other information the Secretary of State considers it appropriate to include.
- (5) For the purposes of section 124 and this section a claimant accepts a claimant commitment if, and only if, the claimant accepts the most up-to-date version of it in such manner as may be prescribed.
- (6) Regulations may provide that in prescribed circumstances, a claimant is to be treated as having satisfied the condition mentioned in section 124(1)(ea).”

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- (4) In section 2F of the Social Security Administration Act 1992 (directions about work-related activity), in subsection (3)(b), for the words from “by” to “2E” there is substituted “ in such manner as the Secretary of State thinks fit ”.
- (5) In section 2G of that Act (contracting out), in subsection (1), at the end there is inserted—
  - “(d) any function under section 124A of the Social Security Contributions and Benefits Act 1992 in relation to a claimant commitment.”

## CHAPTER 4

### MISCELLANEOUS

#### *Claimants dependent on drugs etc*

#### **60 Claimants dependent on drugs etc**

- (1) Section 17C of, and Schedule A1 to, the Jobseekers Act 1995 (persons dependent on drugs etc: jobseekers allowance) are repealed.
- (2) Section 15A of, and Schedule 1A to, the Welfare Reform Act 2007 (persons dependent on drugs etc: employment and support allowance) are repealed.
- (3) In the Welfare Reform Act 2009, section 11 and Schedule 3 (which includes provision for review of the provisions repealed by this section) are repealed.

PROSPECTIVE

#### *Entitlement to work*

#### **61 Entitlement to work: jobseeker's allowance**

- (1) The Jobseekers Act 1995 is amended as follows.
- (2) In section 1 (jobseeker's allowance), in subsection (2), before paragraph (a) there is inserted—
  - “(za) is entitled to be in employment in the United Kingdom;”.
- (3) In that section, after subsection (3) there is inserted—
  - “(3A) For the purposes of subsection (2)(za), a person is entitled to be in employment in the United Kingdom if, and only if—
    - (a) the person does not under the Immigration Act 1971 require leave to enter or remain in the United Kingdom, or
    - (b) the person has been granted such leave and—
      - (i) the leave is not invalid,
      - (ii) the leave has not for any reason ceased to have effect, and
      - (iii) the leave is not subject to a condition preventing the person from accepting any employment.”

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(4) In Schedule 1 (supplementary provisions), after paragraph 8 there is inserted—

“8ZA Regulations may prescribe circumstances in which a person may be entitled to a jobseeker's allowance without being entitled to be in employment in the United Kingdom.”

## **62 Entitlement to work: employment and support allowance**

(1) The Welfare Reform Act 2007 is amended as follows.

(2) In section 1 (employment and support allowance), in subsection (3), before paragraph (a) there is inserted—

“(za) is entitled to be in employment in the United Kingdom.”.

(3) In that section, after subsection (3A) there is inserted—

“(3B) For the purposes of subsection (3)(za), a person is entitled to be in employment in the United Kingdom if, and only if—

(a) the person does not under the Immigration Act 1971 require leave to enter or remain in the United Kingdom, or

(b) the person has been granted such leave and—

(i) the leave is not invalid,

(ii) the leave has not for any reason ceased to have effect, and

(iii) the leave is not subject to a condition preventing the person from accepting any employment.”

(4) In Schedule 2 (supplementary provisions), after paragraph 4A (as inserted by section 54 of this Act) there is inserted—

### **“Entitlement to work in the United Kingdom**

4B Regulations may provide that in prescribed circumstances a person who is not entitled to be in employment in the United Kingdom may nevertheless be entitled to an employment and support allowance.”

## **63 Entitlement to work: maternity allowance and statutory payments**

(1) The Social Security Contributions and Benefits Act 1992 is amended as follows.

(2) In section 35 (state maternity allowance)—

(a) in subsection (1), at the end there is inserted “and

“(e) at the commencement of the week referred to in paragraph (a) above she was entitled to engage in the employment referred to in paragraph (b) above.”;

(b) in subsection (3), before paragraph (a) there is inserted—

“(za) for circumstances in which subsection (1)(e) above does not apply.”.

(3) In section 164 (statutory maternity pay)—

(a) in subsection (2), after paragraph (a) there is inserted—

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- “(aa) that at the end of the week immediately preceding that 14th week she was entitled to be in that employment;”;
- (b) in subsection (9), after paragraph (d) there is inserted—
  - “(da) provide for circumstances in which subsection (2)(aa) above does not apply;”.
- (4) In section 171ZA (ordinary statutory paternity pay: birth)—
  - (a) in subsection (2), after paragraph (b) there is inserted—
    - “(ba) that at the end of the relevant week he was entitled to be in that employment;”;
  - (b) after subsection (3) there is inserted—
    - “(3A) Regulations may provide for circumstances in which subsection (2)(ba) above does not apply.”
- (5) In section 171ZB (ordinary statutory paternity pay: adoption)—
  - (a) in subsection (2), after paragraph (b) there is inserted—
    - “(ba) that at the end of the relevant week he was entitled to be in that employment;”;
  - (b) after subsection (3) there is inserted—
    - “(3A) Regulations may provide for circumstances in which subsection (2)(ba) above does not apply.”
- <sup>F1</sup>(6) .....
- <sup>F2</sup>(7) .....
- (8) In section 171ZL (statutory adoption pay: entitlement)—
  - (a) in subsection (2), after paragraph (b) there is inserted—
    - “(ba) that at the end of the relevant week he was entitled to be in that employment;”;
  - (b) in subsection (3), after “(2)(b)“ there is inserted “, (ba)”;
  - (c) in subsection (8), before paragraph (a) there is inserted—
    - “(za) exclude the application of subsection (2)(ba) above in prescribed circumstances;”.
- (9) After section 173 there is inserted—

**“173A Entitlement to be in employment**

- (1) For the purposes of this Act a person is entitled to engage in or to be in any employment if (and only if)—
  - (a) the person does not under the Immigration Act 1971 require leave to enter or remain in the United Kingdom, or
  - (b) the person has been granted such leave and—
    - (i) the leave is not invalid,
    - (ii) the leave has not for any reason ceased to have effect, and
    - (iii) the leave is not subject to a condition preventing the person from accepting that employment.”

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(10) In Schedule 11 (statutory sick pay: circumstances in which periods of entitlement do not arise)—

(a) in paragraph 2, at the end there is inserted—

“(i) the employee is not entitled to be in his employment on the relevant date.”;

(b) at the end there is inserted—

“9 Paragraph 2(i) above does not apply in prescribed circumstances.”

#### Textual Amendments

- F1** S. 63(6) repealed (5.4.2015) by Children and Families Act 2014 (c. 6), s. 139(6), Sch. 7 para. 75; S.I. 2014/1640, art. 7(pp) (with art. 16)
- F2** S. 63(7) repealed (5.4.2015) by Children and Families Act 2014 (c. 6), s. 139(6), Sch. 7 para. 75; S.I. 2014/1640, art. 7(pp) (with art. 16)

### PART 3

#### OTHER BENEFIT CHANGES

VALID FROM 30/10/2012

#### *Industrial injuries benefit*

#### **64 Injuries arising before 5 July 1948**

(1) In Part 5 of the Social Security Contributions and Benefits Act 1992 (industrial injuries benefit), the following provisions are repealed—

- (a) in section 94(1), the words “after 4th July 1948”;
- (b) in section 103(2)(a), the words “after 4th July 1948”;
- (c) in section 108(1), the words “and which developed after 4th July 1948”;
- (d) in section 108(3), the words “but not before 5th July 1948”;
- (e) in section 109(5)(a), the words “after 4th July 1948”;
- (f) in section 109(5)(b) and (6)(a), the words “and developed after 4th July 1948”.

(2) Accordingly, section 111 and Schedule 8 of that Act (which relate to compensation and benefits in respect of industrial injuries before 5 July 1948) are repealed.

(3) The Secretary of State may make regulations—

- (a) for, and in relation to, the payment of industrial injuries benefit to persons to whom, before the commencement of this section, compensation or benefits were payable under section 111 of, and Schedule 8 to, the Social Security Contributions and Benefits Act 1992;
- (b) for claims for the payment of such compensation or benefit to be treated as claims for industrial injuries benefit.

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- (4) In subsection (3) “industrial injuries benefit” has the meaning given by section 122(1) of the Social Security Contributions and Benefits Act 1992.
- (5) Regulations under this section are to be made by statutory instrument.
- (6) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

VALID FROM 05/12/2012

## 65 Persons under 18

- (1) In Schedule 4 to the Social Security Contributions and Benefits Act 1992 (rates of benefits), Part 5 (rates of industrial injuries benefit) is amended as follows.
- (2) In entry 1 (which relates to disablement pension (weekly rates)), in the second column (“Rate”)—
  - (a) in the opening words, for the words from “in that Table” to the end of paragraph (b) there is substituted “ in column (2) of that Table. ”;
  - (b) in the Table, column (3) is repealed.
- (3) In entry 4 (which relates to the maximum of aggregate of weekly benefit payable for successive accidents), in the second column (“Rate”)—
  - (a) paragraph (a) is repealed, except for the monetary amount specified;
  - (b) paragraph (b) is repealed, including the monetary amount specified.

## 66 Trainees

- (1) After section 95 of the Social Security Contributions and Benefits Act 1992 there is inserted—

### “95A Employment training schemes etc

- (1) In the industrial injuries and diseases provisions any reference to employed earner's employment shall be taken to include participation in an employment training scheme or employment training course of a prescribed description (and “employed earner” shall be construed accordingly).
  - (2) In those provisions, a reference to an employer, in relation to any such participation, shall be taken to be a prescribed person.
  - (3) In this section “industrial injuries and diseases provisions” has the same meaning as in section 95(4) above.”
- (2) In section 11 of the Employment and Training Act 1973 (financial provision), in subsection (3) (power to make payments in respect of trainees equivalent to social security benefits payable in respect of employees), for “Parts II to V” there is substituted “Parts 2 to 4”.
  - (3) The Secretary of State may make regulations—

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- (a) for, and in relation to, the payment of industrial injuries benefit to persons to whom, before the commencement of this section, payments were payable under section 11(3) of the Employment and Training Act 1973;
  - (b) for claims for such payments to be treated as claims for industrial injuries benefit.
- (4) In subsection (3) “industrial injuries benefit” has the meaning given by section 122(1) of the Social Security Contributions and Benefits Act 1992.
- (5) Regulations under this section are to be made by statutory instrument.
- (6) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

VALID FROM 05/12/2012

**67 Restriction on new claims for industrial death benefit**

In Part 6 of Schedule 7 to the Social Security Contributions and Benefits Act 1992 (industrial death benefit), in paragraph 14, after sub-paragraph (1) there is inserted—

“(1A) No claim may be made for industrial death benefit after the coming into force of this sub-paragraph.”

VALID FROM 05/12/2012

**68 Determinations**

- (1) Section 29(2) of the Social Security Act 1998 (which provides for decisions as to whether an accident is an industrial accident in the absence of a claim for benefit) is repealed.
- (2) In section 30 of that Act (effect of decision), in subsection (1), the words from “(given” to “otherwise)” are repealed.

VALID FROM 27/11/2012

*Housing benefit*

**69 Housing benefit: determination of appropriate maximum**

- (1) Section 130A of the Social Security Contributions and Benefits Act 1992 (appropriate maximum housing benefit) is amended as follows.
- (2) In subsection (3), for “The regulations may provide” there is substituted “ The provision which may be made by the regulations includes provision ”.
- (3) For subsections (5) and (6) there is substituted—



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- “(5) The regulations may, for the purpose of determining the AMHB, provide for the amount of the liability mentioned in section 130(1)(a) above to be taken to be an amount other than the actual amount of that liability (and, without prejudice to the generality of this subsection, may provide for it to be taken to be the amount of a rent officer determination).
- (6) The regulations may, for that purpose, make provision for determining the amount of liability under section 130(1)(a) above which a person is treated as having by virtue of regulations under section 137(2)(j) below (and, without prejudice to the generality of this subsection, may provide for that amount to be the amount of a rent officer determination).”
- (4) In section 176(1) of that Act (Parliamentary control), after paragraph (aa) there is inserted—
- “(ab) the first regulations made by virtue of section 130A(5) or (6);”.

### *Social fund*

VALID FROM 01/04/2013

#### **70 Ending of discretionary payments**

- (1) Section 138(1)(b) of the Social Security Contributions and Benefits Act 1992 (discretionary payments out of social fund) is repealed.
- (2) In consequence of the provision made by subsection (1), the office of the social fund Commissioner is abolished.
- (3) Payments are to be made out of the social fund into the Consolidated Fund in respect of—
- (a) amounts allocated under section 168 of the Social Security Administration Act 1992 to the making of such payments as are mentioned in section 138(1)(b) but which are not so applied in consequence of subsection (1);
  - (b) sums relating to such payments as are mentioned in section 138(1)(b) that are paid into the social fund under section 164 of the Social Security Administration Act 1992.
- (4) The payments are to be such as the Secretary of State determines in accordance with any directions of the Treasury to be appropriate.
- (5) Subsection (3) is not to prevent the Secretary of State from re-allocating amounts allocated under section 168(1) of the Social Security Administration Act 1992.
- (6) The Secretary of State may by order provide for the transfer of property, rights and liabilities from the social fund Commissioner.
- (7) An order under this section may—
- (a) provide for the transfer of property, rights and liabilities whether or not they would otherwise be capable of being transferred;
  - (b) make such supplementary, incidental, consequential or transitional provision as the Secretary of State considers appropriate.

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- (8) An order under this section is to be made by statutory instrument.
- (9) A statutory instrument containing an order under this section is subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) Schedule 8 contains consequential amendments.

## 71 Purposes of discretionary payments

In section 138 of the Social Security Contributions and Benefits Act 1992 (payments out of the social fund), in subsection (1)(b), for “to meet other needs” there is substituted “to meet—

- (i) other needs, and
- (ii) in the case of payments by way of budgeting loan, those needs for which provision is made by paragraph (a),”.

## 72 Determination of amount or value of budgeting loan

(1) Section 140 of the Social Security Contributions and Benefits Act 1992 (principles of determination) is amended as follows.

(2) In subsection (4), after paragraph (d) there is inserted—

“(da) that the amount or value of a budgeting loan is not to exceed a sum specified or determined as specified in the direction;”.

(3) After subsection (4) there is inserted—

“(4ZA) A direction under subsection (4)(da) may require the sum to be determined by applying, or by a method that includes applying, a multiplier specified in the direction in circumstances specified in the direction to the most recent relevant sum published by the Secretary of State.

(4ZB) A relevant sum is a sum determined from time to time by reference to so much of any relevant allocation under section 168(1) to (4) of the Administration Act as is available for making payments.”

VALID FROM 01/04/2013

## 73 External provider social loans and community care grants

Sections 16 to 21 of the Welfare Reform Act 2009 (provisions relating to external provider social loans and community care grants), which have not been brought into force, are repealed.

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PROSPECTIVE

*State pension credit*

**74 State pension credit: carers**

- (1) The State Pension Credit Act 2002 is amended as follows.
- (2) In section 2 (guarantee credit), in subsection (8), for paragraphs (a) and (b) there is substituted—
  - “(a) the claimant has regular and substantial caring responsibilities, or
  - (b) the claimant is a member of a couple the other member of which has such responsibilities,”.
- (3) In section 17 (interpretation), in subsection (1), in the appropriate place there is inserted—

““regular and substantial caring responsibilities” has such meaning as may be prescribed;”.

**75 State pension credit: capital limit**

- (1) In section 1 of the State Pension Credit Act 2002 (entitlement), in subsection (2)—
  - (a) in paragraph (b), the final “and” is repealed;
  - (b) at the end there is inserted “and
  - (d) his capital does not exceed a prescribed amount”.
- (2) In section 19 of that Act (regulations and orders), in subsection (2), before paragraph (a) there is inserted—

“(za) section 1(2)(d),”.

*Working tax credit*

**76 Calculation of working tax credit**

- (1) Step 5 in regulation 7(3) of the 2002 Regulations has effect in relation to awards of working tax credit for the whole or part of the relevant year as if from the beginning of the day on 6 April 2011 the percentage to be applied under step 5 in finding the amount of the reduction were 41% (instead of 39%).
- (2) Anything done by the Commissioners before the coming into force of this section in relation to awards of working tax credit for the whole or part of the relevant year is to be treated as having been duly done, if it would have been duly done but for being done on the basis that from the beginning of the day on 6 April 2011 the percentage to be applied under step 5 was 41%.
- (3) In this section—

“the 2002 Regulations” means the Tax Credits (Income Thresholds and Determination of Rates) Regulations 2002 (S.I. 2002/2008);

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“the Commissioners” means the Commissioners for Her Majesty's Revenue and Customs;

“the relevant year” means the year beginning with 6 April 2011.

VALID FROM 25/02/2013

## PART 4

### PERSONAL INDEPENDENCE PAYMENT

#### *Personal independence payment*

#### **77 Personal independence payment**

- (1) An allowance known as personal independence payment is payable in accordance with this Part.
- (2) A person's entitlement to personal independence payment may be an entitlement to—
  - (a) the daily living component (see section 78);
  - (b) the mobility component (see section 79); or
  - (c) both those components.
- (3) A person is not entitled to personal independence payment unless the person meets prescribed conditions relating to residence and presence in Great Britain.

#### **78 Daily living component**

- (1) A person is entitled to the daily living component at the standard rate if—
  - (a) the person's ability to carry out daily living activities is limited by the person's physical or mental condition; and
  - (b) the person meets the required period condition.
- (2) A person is entitled to the daily living component at the enhanced rate if—
  - (a) the person's ability to carry out daily living activities is severely limited by the person's physical or mental condition; and
  - (b) the person meets the required period condition.
- (3) In this section, in relation to the daily living component—
  - (a) “the standard rate” means such weekly rate as may be prescribed;
  - (b) “the enhanced rate” means such weekly rate as may be prescribed.
- (4) In this Part “daily living activities” means such activities as may be prescribed for the purposes of this section.
- (5) See sections 80 and 81 for provision about determining—
  - (a) whether the requirements of subsection (1)(a) or (2)(a) above are met;
  - (b) whether a person meets “the required period condition” for the purposes of subsection (1)(b) or (2)(b) above.

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- (6) This section is subject to the provisions of this Part, or regulations under it, relating to entitlement to the daily living component (see in particular sections 82 (persons who are terminally ill) and 83 (persons of pensionable age)).

## **79 Mobility component**

- (1) A person is entitled to the mobility component at the standard rate if—
- the person is of or over the age prescribed for the purposes of this subsection;
  - the person's ability to carry out mobility activities is limited by the person's physical or mental condition; and
  - the person meets the required period condition.
- (2) A person is entitled to the mobility component at the enhanced rate if—
- the person is of or over the age prescribed for the purposes of this subsection;
  - the person's ability to carry out mobility activities is severely limited by the person's physical or mental condition; and
  - the person meets the required period condition.
- (3) In this section, in relation to the mobility component—
- “the standard rate” means such weekly rate as may be prescribed;
  - “the enhanced rate” means such weekly rate as may be prescribed.
- (4) In this Part “mobility activities” means such activities as may be prescribed for the purposes of this section.
- (5) See sections 80 and 81 for provision about determining—
- whether the requirements of subsection (1)(b) or (2)(b) above are met;
  - whether a person meets “the required period condition” for the purposes of subsection (1)(c) or (2)(c) above.
- (6) This section is subject to the provisions of this Part, or regulations under it, relating to entitlement to the mobility component (see in particular sections 82 and 83).
- (7) Regulations may provide that a person is not entitled to the mobility component for a period (even though the requirements in subsection (1) or (2) are met) in prescribed circumstances where the person's condition is such that during all or most of the period the person is unlikely to benefit from enhanced mobility.

## **80 Ability to carry out daily living activities or mobility activities**

- (1) For the purposes of this Part, the following questions are to be determined in accordance with regulations—
- whether a person's ability to carry out daily living activities is limited by the person's physical or mental condition;
  - whether a person's ability to carry out daily living activities is severely limited by the person's physical or mental condition;
  - whether a person's ability to carry out mobility activities is limited by the person's physical or mental condition;
  - whether a person's ability to carry out mobility activities is severely limited by the person's physical or mental condition.

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- (2) Regulations must make provision for determining, for the purposes of each of sections 78(1) and (2) and 79(1) and (2), whether a person meets “the required period condition” (see further section 81).
- (3) Regulations under this section—
  - (a) must provide for the questions mentioned in subsections (1) and (2) to be determined, except in prescribed circumstances, on the basis of an assessment (or repeated assessments) of the person;
  - (b) must provide for the way in which an assessment is to be carried out;
  - (c) may make provision about matters which are, or are not, to be taken into account in assessing a person.
- (4) The regulations may, in particular, make provision—
  - (a) about the information or evidence required for the purpose of determining the questions mentioned in subsections (1) and (2);
  - (b) about the way in which that information or evidence is to be provided;
  - (c) requiring a person to participate in such a consultation, with a person approved by the Secretary of State, as may be determined under the regulations (and to attend for the consultation at a place, date and time determined under the regulations).
- (5) The regulations may include provision—
  - (a) for a negative determination to be treated as made if a person fails without a good reason to comply with a requirement imposed under subsection (4);
  - (b) about what does or does not constitute a good reason for such a failure;
  - (c) about matters which are, or are not, to be taken into account in determining whether a person has a good reason for such a failure.
- (6) In subsection (5)(a) a “negative determination” means a determination that a person does not meet the requirements of—
  - (a) section 78(1)(a) and (b) or (2)(a) and (b) (daily living component);
  - (b) section 79(1)(a) to (c) or (2)(a) to (c) (mobility component).

## **81 Required period condition: further provision**

- (1) Regulations under section 80(2) must provide for the question of whether a person meets “the required period condition” for the purposes of section 78(1) or (2) or 79(1) or (2) to be determined by reference to—
  - (a) whether, as respects every time in the previous 3 months, it is likely that if the relevant ability had been assessed at that time that ability would have been determined to be limited or (as the case may be) severely limited by the person's physical or mental condition; and
  - (b) whether, as respects every time in the next 9 months, it is likely that if the relevant ability were to be assessed at that time that ability would be determined to be limited or (as the case may be) severely limited by the person's physical or mental condition.
- (2) In subsection (1) “the relevant ability” means—
  - (a) in relation to section 78(1) or (2), the person's ability to carry out daily living activities;

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- (b) in relation to section 79(1) or (2), the person's ability to carry out mobility activities.
- (3) In subsection (1)—
  - (a) “assessed” means assessed in accordance with regulations under section 80;
  - (b) “the previous 3 months” means the 3 months ending with the prescribed date;
  - (c) “the next 9 months” means the 9 months beginning with the day after that date.
- (4) Regulations under section 80(2) may provide that in prescribed cases the question of whether a person meets “the required period condition” for the purposes of section 78(1) or (2) or 79(1) or (2)—
  - (a) is not to be determined in accordance with the provision made by virtue of subsections (1) to (3) above;
  - (b) is to be determined in accordance with provision made in relation to those cases by the regulations.

*Entitlement and payability: further provision*

VALID FROM 08/04/2013

## **82 Terminal illness**

- (1) This section applies to a person who—
  - (a) is terminally ill; and
  - (b) has made a claim for personal independence payment expressly on the ground of terminal illness.
- (2) A person to whom this section applies is entitled to the daily living component at the enhanced rate (and accordingly section 78(1) and (2) do not apply to such a person).
- (3) Section 79(1)(c) and (2)(c) (required period condition for mobility component) do not apply to a person to whom this section applies.
- (4) For the purposes of this section a person is “terminally ill” at any time if at that time the person suffers from a progressive disease and the person's death in consequence of that disease can reasonably be expected within 6 months.
- (5) For the purposes of this section, where—
  - (a) a person purports to make a claim for personal independence payment on behalf of another, and
  - (b) the claim is made expressly on the ground that the person on whose behalf it purports to be made is terminally ill,that person is to be regarded as making the claim despite its being made without that person's knowledge or authority.
- (6) In subsection (2) “the enhanced rate” has the meaning given by section 78(3).

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### 83 Persons of pensionable age

- (1) A person is not entitled to the daily living component or the mobility component for any period after the person reaches the relevant age.
- (2) In subsection (1) “the relevant age” means—
  - (a) pensionable age (within the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995); or
  - (b) if higher, 65.
- (3) Subsection (1) is subject to such exceptions as may be provided by regulations.

VALID FROM 08/04/2013

### 84 No entitlement to daily living component where UK is not competent state

- (1) A person to whom a relevant EU Regulation applies is not entitled to the daily living component for a period unless during that period the United Kingdom is competent for payment of sickness benefits in cash to the person for the purposes of Chapter 1 of Title III of the Regulation in question.
- (2) Each of the following is a “relevant EU Regulation” for the purposes of this section—
  - (a) Council Regulation (EC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community;
  - (b) Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems.

### 85 Care home residents

- (1) Regulations may provide that no amount in respect of personal independence payment which is attributable to entitlement to the daily living component is payable in respect of a person for a period when the person meets the condition in subsection (2).
- (2) The condition is that the person is a resident of a care home in circumstances in which any of the costs of any qualifying services provided for the person are borne out of public or local funds by virtue of a specified enactment.
- (3) In this section “care home” means an establishment that provides accommodation together with nursing or personal care.
- (4) The following are “qualifying services” for the purposes of subsection (2)—
  - (a) accommodation;
  - (b) board;
  - (c) personal care;
  - (d) such other services as may be prescribed.
- (5) The reference in subsection (2) to a “specified enactment” is to an enactment which is specified for the purposes of that subsection by regulations or is of a description so specified.



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- (6) The power to specify an enactment for the purposes of subsection (2) includes power to specify it only in relation to its application for a particular purpose.
- (7) In this section “enactment” includes an enactment comprised in an Act of the Scottish Parliament or in an instrument made under such an Act.

## 86 Hospital in-patients

- (1) Regulations may provide as mentioned in either or both of the following paragraphs—
  - (a) that no amount in respect of personal independence payment which is attributable to entitlement to the daily living component is payable in respect of a person for a period when the person meets the condition in subsection (2);
  - (b) that no amount in respect of personal independence payment which is attributable to entitlement to the mobility component is payable in respect of a person for a period when the person meets the condition in subsection (2).
- (2) The condition is that the person is undergoing medical or other treatment as an in-patient at a hospital or similar institution in circumstances in which any of the costs of the treatment, accommodation and any related services provided for the person are borne out of public funds.
- (3) For the purposes of subsection (2) the question of whether any of the costs of medical or other treatment, accommodation and related services provided for a person are borne out of public funds is to be determined in accordance with the regulations.

## 87 Prisoners and detainees

Except to the extent that regulations provide otherwise, no amount in respect of personal independence payment is payable in respect of a person for a period during which the person is undergoing imprisonment or detention in legal custody.

### Modifications etc. (not altering text)

- C2** S. 87 excluded (coming into force in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Personal Independence Payment\) Regulations 2013 \(S.I. 2013/377\)](#), regs. 1(2), [31\(1\)\(3\)\(6\)](#)

### Commencement Information

- I11** S. 87 in force at 25.2.2013 for specified purposes by [S.I. 2013/358](#), art. 2(1), [Sch. 1 para. 15](#)

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VALID FROM 08/04/2013

### *Supplementary*

#### **88 Claims, awards and information**

- (1) A person is not entitled to personal independence payment for any period before the date on which a claim for it is made or treated as made by that person or on that person's behalf.
- (2) An award of personal independence payment is to be for a fixed term except where the person making the award considers that a fixed term award would be inappropriate.
- (3) In deciding whether a fixed term award would be inappropriate, that person must have regard to guidance issued by the Secretary of State.
- (4) Information supplied under this Part is to be taken for all purposes to be information relating to social security.

#### **89 Report to Parliament**

The Secretary of State must lay before Parliament an independent report on the operation of assessments under section 80—

- (a) within 2 years beginning with the date on which the first regulations under that section come into force; and
- (b) within 4 years beginning with that date.

### *General*

PROSPECTIVE

#### **90 Abolition of disability living allowance**

Sections 71 to 76 of the Social Security Contributions and Benefits Act 1992 (disability living allowance) are repealed.

#### **91 Amendments**

Schedule 9 contains amendments relating to this Part.

#### **92 Power to make supplementary and consequential provision**

- (1) Regulations may make such consequential, supplementary or incidental provision in relation to any provision of this Part as the Secretary of State considers appropriate.
- (2) Regulations under this section may—
  - (a) amend, repeal or revoke any primary or secondary legislation passed or made before the day on which this Act is passed, or

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(b) amend or repeal any provision of an Act passed on or after that day but in the same session of Parliament.

(3) In this section—

- (a) “primary legislation” means an Act or Act of the Scottish Parliament;
- (b) “secondary legislation” means any instrument made under primary legislation.

### **93 Transitional**

- (1) Regulations may make such provision as the Secretary of State considers necessary or expedient in connection with the coming into force of any provision of this Part.
- (2) Schedule 10 (transitional provision for introduction of personal independence payment) has effect.

### **94 Regulations**

- (1) Regulations under this Part are to be made by the Secretary of State.
- (2) A power to make regulations under this Part may be exercised—
  - (a) so as to make different provision for different cases or purposes;
  - (b) in relation to all or only some of the cases or purposes for which it may be exercised.
- (3) Such a power includes—
  - (a) power to make incidental, supplementary, consequential or transitional provision or savings;
  - (b) power to provide for a person to exercise a discretion in dealing with any matter.
- (4) The power under subsection (2)(a) includes, in particular, power to make different provision for persons of different ages.
- (5) Regulations under this Part are to be made by statutory instrument.
- (6) A statutory instrument containing (whether alone or with other provision) any of the following—
  - (a) the first regulations under section 78(4) or 79(4);
  - (b) the first regulations under section 80;
  - (c) the first regulations under that section containing provision about assessment of persons under the age of 16,may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (7) Any other statutory instrument containing regulations under this Part is subject to annulment in pursuance of a resolution of either House of Parliament.

### **95 Interpretation of Part 4**

In this Part—

“daily living activities” has the meaning given by section 78(4);

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“daily living component” means the daily living component of personal independence payment;

“mobility activities” has the meaning given by section 79(4);

“mobility component” means the mobility component of personal independence payment;

“prescribed” means prescribed by regulations.

## PART 5

### SOCIAL SECURITY: GENERAL

VALID FROM 27/11/2012

#### *Benefit cap*

#### **96 Benefit cap**

- (1) Regulations may provide for a benefit cap to be applied to the welfare benefits to which a single person or couple is entitled.
- (2) For the purposes of this section, applying a benefit cap to welfare benefits means securing that, where a single person's or couple's total entitlement to welfare benefits in respect of the reference period exceeds the relevant amount, their entitlement to welfare benefits in respect of any period of the same duration as the reference period is reduced by an amount up to or equalling the excess.
- (3) In subsection (2) the “reference period” means a period of a prescribed duration.
- (4) Regulations under this section may in particular—
  - (a) make provision as to the manner in which total entitlement to welfare benefits for any period, or the amount of any reduction, is to be determined;
  - (b) make provision as to the welfare benefit or benefits from which a reduction is to be made;
  - (c) provide for exceptions to the application of the benefit cap;
  - (d) make provision as to the intervals at which the benefit cap is to be applied;
  - (e) make provision as to the relationship between application of the benefit cap and any other reduction in respect of a welfare benefit;
  - (f) provide that where in consequence of a change in the relevant amount, entitlement to a welfare benefit increases or decreases, that increase or decrease has effect without any further decision of the Secretary of State;
  - (g) make supplementary and consequential provision.
- (5) In this section the “relevant amount” is an amount specified in regulations.
- (6) The amount specified under subsection (5) is to be determined by reference to estimated average earnings.
- (7) In this section “estimated average earnings” means the amount which, in the opinion of the Secretary of State, represents at any time the average weekly earnings of a

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working household in Great Britain after deductions in respect of tax and national insurance contributions.

- (8) The Secretary of State may estimate such earnings in such manner as the Secretary of State thinks fit.
- (9) Regulations under this section may not provide for any reduction to be made from a welfare benefit—
  - (a) provision for which is within the legislative competence of the Scottish Parliament;
  - (b) provision for which is within the legislative competence of the National Assembly for Wales;
  - (c) provision for which is made by the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government.
- (10) In this section—
  - “couple” means two persons of a prescribed description;
  - “prescribed” means prescribed in regulations;
  - “regulations” means regulations made by the Secretary of State;
  - “single person” means a person who is not a member of a couple;
  - “welfare benefit” means any prescribed benefit, allowance, payment or credit.
- (11) Regulations under subsection (10) may not prescribe as welfare benefits—
  - (a) state pension credit under the State Pension Credit Act 2002, or
  - (b) retirement pensions under Part 2 or 3 of the Social Security Contributions and Benefits Act 1992.

## **97 Benefit cap: supplementary**

- (1) Regulations under section 96 may make different provision for different purposes or cases.
- (2) Regulations under section 96 must be made by statutory instrument.
- (3) A statutory instrument containing the first regulations under section 96 may not be made unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament.
- (4) A statutory instrument containing other regulations under section 96 is subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) In section 150 of the Social Security Administration Act 1992 (annual up-rating of benefits) after subsection (7) there is inserted—
  - “(7A) The Secretary of State—
    - (a) shall in each tax year review the amount specified under subsection (5) of section 96 of the Welfare Reform Act 2012 (benefit cap) to determine whether its relationship with estimated average earnings (within the meaning of that section) has changed, and
    - (b) after that review may, if the Secretary of State considers it appropriate, include in the draft of an up-rating order provision increasing or decreasing that amount.”

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- (6) In Schedule 2 to the Social Security Act 1998 (decisions against which no appeal lies) after paragraph 8 there is inserted—

**“Reduction on application of benefit cap**

- 8A A decision to apply the benefit cap in accordance with regulations under section 96 of the Welfare Reform Act 2012.”

VALID FROM 25/02/2013

*Claims and awards*

**98 Claims and awards**

- (1) Section 5(1) of the Social Security Administration Act 1992 (regulations about claims and payments) is amended as follows.
- (2) In paragraph (d) (conditional awards), for the words from “the condition” to the end there is substituted—
  - “(i) the condition that the requirements for entitlement are satisfied at a prescribed time after the making of the award, or
  - (ii) other prescribed conditions;”.
- (3) In paragraph (e), for “those requirements“ there is substituted “ the conditions referred to in paragraph (d) ”.
- (4) In paragraph (g) (claims made on behalf of another), after “applies” there is inserted “ (including in particular, in the case of a benefit to be claimed by persons jointly, enabling one person to claim for such persons jointly) ”.
- (5) In paragraph (j) (notice of change of circumstances etc), at the end there is inserted “or of any other change of circumstance of a prescribed description”.

**99 Powers to require information relating to claims and awards**

- (1) Section 5 of the Social Security Administration Act 1992 (regulations about claims and payments) is amended as follows.
- (2) In subsection (1), paragraphs (h) and (hh) (powers to make provision requiring the furnishing of information or evidence) are repealed.
- (3) After that subsection there is inserted—
  - “(1A) Regulations may make provision for requiring a person of a prescribed description to supply any information or evidence which is, or could be, relevant to—
    - (a) a claim or award relating to a benefit to which this section applies, or
    - (b) potential claims or awards relating to such a benefit.”
- (4) Subsection (3A) is repealed.

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- (5) In section 22 of the Social Security Act 1998 (suspension for failure to furnish information etc), in subsection (3), for “subsection (1)(hh) of section 5” there is substituted “ section 5(1A) ”.

VALID FROM 25/02/2013

### *Payments*

#### **100 Payments to joint claimants**

In section 5 of the Social Security Administration Act 1992 (regulations about claims and payments), after subsection (3A) there is inserted—

“(3B) The power in subsection (1)(i) above to make provision for the person to whom a benefit is to be paid includes, in the case of a benefit awarded to persons jointly, power to make provision for the Secretary of State to determine to which of them all or any part of a payment should be made, and in particular for the Secretary of State—

- (a) to determine that payment should be made to whichever of those persons they themselves nominate, or
- (b) to determine that payment should be made to one of them irrespective of any nomination by them.”

#### **101 Payments on account**

- (1) In section 5(1) of the Social Security Administration Act 1992 (regulations about claims and payments), for paragraph (r) there is substituted—

“(r) for the making of a payment on account of such a benefit—

- (i) in cases where it is impracticable for a claim to be made or determined immediately, or for an award to be determined or paid in full immediately,
- (ii) in cases of need, or
- (iii) in cases where the Secretary of State considers in accordance with prescribed criteria that the payment can reasonably be expected to be recovered;”.

- (2) Section 22 of the Welfare Reform Act 2009 (payments on account), which has not been brought into force, is repealed.

### *Appeals*

VALID FROM 25/02/2013

#### **102 Power to require consideration of revision before appeal**

- (1) The Social Security Act 1998 is amended as follows.

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- (2) In section 12 (appeals to First-tier Tribunal), in subsection (2)—
- (a) the words from “in relation to” to the end become paragraph (a), and
  - (b) after that paragraph there is inserted “, or  
“(b) where regulations under subsection (3A) so provide.”
- (3) After subsection (3) of that section there is inserted—
- “(3A) Regulations may provide that, in such cases or circumstances as may be prescribed, there is a right of appeal under subsection (2) in relation to a decision only if the Secretary of State has considered whether to revise the decision under section 9.
- (3B) The regulations may in particular provide that that condition is met only where—
- (a) the consideration by the Secretary of State was on an application,
  - (b) the Secretary of State considered issues of a specified description, or
  - (c) the consideration by the Secretary of State satisfied any other condition specified in the regulations.
- (3C) The references in subsections (3A) and (3B) to regulations and to the Secretary of State are subject to any enactment under or by virtue of which the functions under this Chapter are transferred to or otherwise made exercisable by a person other than the Secretary of State.”
- (4) In subsection (7) of that section—
- (a) the words from “make provision” to the end become paragraph (a);
  - (b) after that paragraph there is inserted—  
“(b) provide that, where in accordance with regulations under subsection (3A) there is no right of appeal against a decision, any purported appeal may be treated as an application for revision under section 9.”
- (5) In section 80(1)(a) (affirmative procedure for certain regulations) after “12(2)” there is inserted “ or (3A) ”.
- (6) Schedule 11 contains similar amendments to other Acts.
- (7) Subsection (8) applies where regulations under a provision mentioned in subsection (9) are made so as to have effect in relation to a limited area (by virtue of provision made under section 150(4)(b)).
- (8) Any power to make, in connection with those regulations, provision as respects decisions and appeals may be exercised so that that provision applies only in relation to the area mentioned in subsection (7).
- (9) The provisions referred to in subsection (7) are—
- (a) section 12(3A) of the Social Security Act 1998;
  - (b) section 4(1B) of the Vaccine Damage Payments Act 1979;
  - (c) subsection (2A) of section 20 of the Child Support Act 1991 (as substituted by section 10 of the Child Support, Pensions and Social Security Act 2000);
  - (d) subsection (3A) of section 20 of the Child Support Act 1991 (as it has effect apart from section 10 of the Child Support, Pensions and Social Security Act 2000);



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- (e) section 11(2A) of the Social Security (Recovery of Benefits) Act 1997;
- (f) paragraph 6(5A) of Schedule 7 to the Child Support, Pensions and Social Security Act 2000;
- (g) section 50(1A) of the Child Maintenance and Other Payments Act 2008.

### 103 Supersession of decisions of former appellate bodies

- (1) Schedule 12 contains amendments reinstating powers to make decisions superseding decisions made by appellate bodies before their functions were transferred to the First-tier Tribunal and Upper Tribunal.
- (2) The following have effect as if they had come into force on 3 November 2008—
  - (a) the amendments made by Schedule 12, and
  - (b) if regulations made in the exercise of the powers conferred by virtue of those amendments so provide, those regulations.

VALID FROM 25/02/2013

#### *Electronic communications*

### 104 Electronic communications

- (1) In section 189 of the Social Security Administration Act 1992 (regulations and orders - general), after subsection (5) there is inserted—
  - “(5A) The provision referred to in subsection (5) includes, in a case where regulations under this Act require or authorise the use of electronic communications, provision referred to in section 8(4) and (5) and 9(5) of the Electronic Communications Act 2000.
  - (5B) For the purposes of subsection (5A), references in section 8(4) and (5) and 9(5) of the Electronic Communications Act 2000 to an order under section 8 of that Act are to be read as references to regulations under this Act; and references to anything authorised by such an order are to be read as references to anything required or authorised by such regulations.”
- (2) In section 79 of the Social Security Act 1998 (regulations and orders), after subsection (6) there is inserted—
  - “(6A) The provision referred to in subsection (6) includes, in a case where regulations under this Act require or authorise the use of electronic communications, provision referred to in section 8(4) and (5) and 9(5) of the Electronic Communications Act 2000.
  - (6B) For the purposes of subsection (6A), references in section 8(4) and (5) and 9(5) of the Electronic Communications Act 2000 to an order under section 8 of that Act are to be read as references to regulations under this Act; and references to anything authorised by such an order are to be read as references to anything required or authorised by such regulations.”

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## *Recovery of benefits*

VALID FROM 01/07/2012

### **105 Recovery of benefit payments**

- (1) In the Social Security Administration Act 1992, after section 71ZA there is inserted—

#### *“Recovery of benefit payments*

#### **71ZB Recovery of overpayments of certain benefits**

- (1) The Secretary of State may recover any amount of the following paid in excess of entitlement—
- (a) universal credit,
  - (b) jobseeker's allowance,
  - (c) employment and support allowance, and
  - (d) except in prescribed circumstances, housing credit (within the meaning of the State Pension Credit Act 2002).
- (2) An amount recoverable under this section is recoverable from—
- (a) the person to whom it was paid, or
  - (b) such other person (in addition to or instead of the person to whom it was paid) as may be prescribed.
- (3) An amount paid in pursuance of a determination is not recoverable under this section unless the determination has been—
- (a) reversed or varied on an appeal, or
  - (b) revised or superseded under section 9 or section 10 of the Social Security Act 1998,
- except where regulations otherwise provide.
- (4) Regulations may provide that amounts recoverable under this section are to be calculated or estimated in a prescribed manner.
- (5) Where an amount of universal credit is paid for the sole reason that a payment by way of prescribed income is made after the date which is the prescribed date for payment of that income, that amount is for the purposes of this section paid in excess of entitlement.
- (6) In the case of a benefit referred to in subsection (1) which is awarded to persons jointly, an amount paid to one of those persons may for the purposes of this section be regarded as paid to the other.
- (7) An amount recoverable under this section may (without prejudice to any other means of recovery) be recovered—
- (a) by deduction from benefit (section 71ZC);
  - (b) by deduction from earnings (section 71ZD);
  - (c) through the courts etc (section 71ZE);
  - (d) by adjustment of benefit (section 71ZF).

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### **71ZC Deduction from benefit**

- (1) An amount recoverable from a person under section 71ZB may be recovered by deducting the amount from payments of prescribed benefit.
- (2) Where an amount recoverable from a person under section 71ZB was paid to the person on behalf of another, subsection (1) authorises its recovery from the person by deduction—
  - (a) from prescribed benefits to which the person is entitled,
  - (b) from prescribed benefits paid to the person to discharge (in whole or in part) an obligation owed to that person by the person on whose behalf the recoverable amount was paid, or
  - (c) from prescribed benefits paid to the person to discharge (in whole or in part) an obligation owed to that person by any other person.
- (3) Where an amount is recovered as mentioned in paragraph (b) of subsection (2), the obligation specified in that paragraph shall in prescribed circumstances be taken to be discharged by the amount of the deduction.
- (4) Where an amount is recovered as mentioned in paragraph (c) of subsection (2), the obligation specified in that paragraph shall in all cases be taken to be so discharged.

### **71ZD Deduction from earnings**

- (1) Regulations may provide for amounts recoverable under section 71ZB to be recovered by deductions from earnings.
- (2) In this section “earnings” has such meaning as may be prescribed.
- (3) Regulations under subsection (1) may include provision—
  - (a) requiring the person from whom an amount is recoverable (“the beneficiary”) to disclose details of their employer, and any change of employer, to the Secretary of State;
  - (b) requiring the employer, on being served with a notice by the Secretary of State, to make deductions from the earnings of the beneficiary and to pay corresponding amounts to the Secretary of State;
  - (c) as to the matters to be contained in such a notice and the period for which a notice is to have effect;
  - (d) as to how payment is to be made to the Secretary of State;
  - (e) as to a level of earnings below which earnings must not be reduced;
  - (f) allowing the employer, where the employer makes deductions, to deduct a prescribed sum from the beneficiary's earnings in respect of the employer's administrative costs;
  - (g) requiring the employer to keep records of deductions;
  - (h) requiring the employer to notify the Secretary of State if the beneficiary is not, or ceases to be, employed by the employer;
  - (i) creating a criminal offence for non-compliance with the regulations, punishable on summary conviction by a fine not exceeding level 3 on the standard scale;

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- (j) with respect to the priority as between a requirement to deduct from earnings under this section and—
  - (i) any other such requirement;
  - (ii) an order under any other enactment relating to England and Wales which requires deduction from the beneficiary's earnings;
  - (iii) any diligence against earnings.

#### **71ZE Court action etc**

- (1) Where an amount is recoverable under section 71ZB from a person residing in England and Wales, the amount is, if a county court so orders, recoverable—
  - (a) under section 85 of the County Courts Act 1984, or
  - (b) otherwise as if it were payable under an order of the court.
- (2) Where an amount is recoverable under section 71ZB from a person residing in Scotland, the amount recoverable may be enforced as if it were payable under an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.
- (3) Any costs of the Secretary of State in recovering an amount of benefit under this section may be recovered by him as if they were amounts recoverable under section 71ZB.
- (4) In any period after the coming into force of this section and before the coming into force of section 62 of the Tribunals, Courts and Enforcement Act 2007, subsection (1)(a) has effect as if it read “by execution issued from the county court”.

#### **71ZF Adjustment of benefit**

Regulations may for the purpose of the recovery of amounts recoverable under section 71ZB make provision—

- (a) for treating any amount paid to a person under an award which it is subsequently determined was not payable—
  - (i) as properly paid, or
  - (ii) as paid on account of a payment which it is determined should be or should have been made,
 and for reducing or withholding arrears payable by virtue of the subsequent determination;
- (b) for treating any amount paid to one person in respect of another as properly paid for any period for which it is not payable in cases where in consequence of a subsequent determination—
  - (i) the other person is entitled to a payment for that period, or
  - (ii) a third person is entitled in priority to the payee to a payment for that period in respect of the other person,
 and by reducing or withholding any arrears payable for that period by virtue of the subsequent determination.

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### **71ZG Recovery of payments on account**

- (1) The Secretary of State may recover any amount paid under section 5(1)(r) (payments on account).
- (2) An amount recoverable under this section is recoverable from—
  - (a) the person to whom it was paid, or
  - (b) such other person (in addition to or instead of the person to whom it was paid) as may be prescribed.
- (3) Regulations may provide that amounts recoverable under this section are to be calculated or estimated in a prescribed manner.
- (4) In the case of a payment on account of a benefit which is awarded to persons jointly, an amount paid to one of those persons may for the purposes of this section be regarded as paid to the other.
- (5) Sections 71ZC, 71ZD and 71ZE apply in relation to amounts recoverable under this section as to amounts recoverable under section 71ZB.

### **71ZH Recovery of hardship payments etc**

- (1) The Secretary of State may recover any amount paid by way of—
  - (a) a payment under section 28 of the Welfare Reform Act 2012 (universal credit hardship payments) which is recoverable under that section,
  - (b) a payment under section 19C of the Jobseekers Act 1995 (jobseeker's allowance hardship payments) which is recoverable under that section,
  - (c) a payment of a jobseeker's allowance under paragraph 8 or 8A of Schedule 1 to that Act (exemptions), where the allowance is payable at a prescribed rate under paragraph 9 of that Schedule and is recoverable under that paragraph,
  - (d) a payment of a jobseeker's allowance under paragraph 10 of that Schedule (claims yet to be determined etc) which is recoverable under that paragraph, or
  - (e) a payment which is recoverable under section 6B(5A)(d) or (7)(d), 7(2A)(d) or (4)(d), 8(3)(aa), (4)(d) or 9(2A)(d) or (4)(d) of the Social Security Fraud Act 2001.
- (2) An amount recoverable under this section is recoverable from—
  - (a) the person to whom it was paid, or
  - (b) such other person (in addition to or instead of the person to whom it was paid) as may be prescribed.
- (3) Regulations may provide that amounts recoverable under this section are to be calculated or estimated in a prescribed manner.
- (4) Where universal credit or a jobseeker's allowance is claimed by persons jointly, an amount paid to one claimant may for the purposes of this section be regarded as paid to the other.

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- (5) Sections 71ZC to 71ZF apply in relation to amounts recoverable under this section as to amounts recoverable under section 71ZB.”
- (2) In section 71 of that Act (overpayments - general), in subsection (11)(ab), at the end there is inserted “excluding housing credit (see section 71ZB)”.
- (3) In section 115A of that Act (penalty as alternative to prosecution), in subsection (1), after “71” there is inserted “ 71ZB ”.
- (4) In section 115B of that Act (penalty as alternative to prosecution: colluding employers etc)—
- (a) for subsection (4) there is substituted—
- “(4) If the recipient of a notice under subsection (3) above agrees, in the specified manner, to pay the penalty—
- (a) the amount of the penalty shall be recoverable from the recipient by the Secretary of State or authority; and
- (b) no criminal proceedings shall be instituted against the recipient in respect of the conduct to which the notice relates.
- (4A) Sections 71ZC, 71ZD and 71ZE above apply in relation to amounts recoverable under subsection (4)(a) above as to amounts recoverable by the Secretary of State under section 71ZB above (and, where the notice is given by an authority administering housing benefit or council tax benefit, those sections so apply as if references to the Secretary of State were to that authority).”;
- (b) in subsection (9), the definition of “relevant benefit” is repealed.
- (5) In Schedule 1 to the Jobseekers Act 1995 (supplementary provision)—
- (a) in paragraph 9, at the end there is inserted—
- “(c) as to whether the whole or part of any amount of a jobseeker's allowance which is payable as specified in paragraph (a) is recoverable.”;
- (b) in paragraph 10, for sub-paragraph (5)(a) there is substituted—
- “(a) as to whether the whole or part of any amount paid by virtue of sub-paragraph (1) or (2) is recoverable;”.
- (6) In section 12 of the Social Security Act 1998 (appeal to First-tier Tribunal), in subsection (4), after “71” there is inserted “ , 71ZB, 71ZG, 71ZH, ”.
- (7) In Schedule 3 to that Act (decisions against which an appeal lies), after paragraph 6 there is inserted—
- “6A        A decision as to whether payment of housing credit (within the meaning of the State Pension Credit Act 2002) is recoverable under section 71ZB of the Administration Act.
- 6B        A decision as to the amount of payment recoverable under section 71ZB, 71ZG or 71ZH of the Administration Act.”

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VALID FROM 01/07/2012

## 106 Deduction from earnings: other cases

- (1) In section 71 of the Social Security Administration Act 1992 (overpayments - general), after subsection (9) there is inserted—

“(9A) Regulations may provide for amounts recoverable under the provisions mentioned in subsection (8) above to be recovered by deductions from earnings.

(9B) In subsection (9A) above “earnings” has such meaning as may be prescribed.

(9C) Regulations under subsection (9A) above may include provision—

- (a) requiring the person from whom an amount is recoverable (“the beneficiary”) to disclose details of their employer, and any change of employer, to the Secretary of State;
  - (b) requiring the employer, on being served with a notice by the Secretary of State, to make deductions from the earnings of the beneficiary and to pay corresponding amounts to the Secretary of State;
  - (c) as to the matters to be contained in such a notice and the period for which a notice is to have effect;
  - (d) as to how payment is to be made to the Secretary of State;
  - (e) as to a level of earnings below which earnings must not be reduced;
  - (f) allowing the employer, where the employer makes deductions, to deduct a prescribed sum from the beneficiary's earnings in respect of the employer's administrative costs;
  - (g) requiring the employer to keep records of deductions;
  - (h) requiring the employer to notify the Secretary of State if the beneficiary is not, or ceases to be, employed by the employer;
  - (i) creating a criminal offence for non-compliance with the regulations, punishable on summary conviction by a fine not exceeding level 3 on the standard scale;
  - (j) with respect to the priority as between a requirement to deduct from earnings under this section and—
    - (i) any other such requirement;
    - (ii) an order under any other enactment relating to England and Wales which requires deduction from the beneficiary's earnings;
    - (iii) any diligence against earnings.”
- (2) In section 71ZA of that Act (overpayments out of social fund), before subsection (3) there is inserted—
- “(2A) Subsection (9A) of section 71 above as it so applies shall have effect as if the reference to amounts recoverable under the provisions mentioned in subsection (8) of that section were to amounts recoverable under subsections (1) and (4) of that section by virtue of subsection (1) above.”

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(3) In section 75 of that Act (overpayments of housing benefit), at the end there is inserted—

“(8) Regulations may provide for amounts recoverable under this section to be recovered by deductions from earnings.

(9) In subsection (8) above “earnings“ has such meaning as may be prescribed.

(10) Regulations under subsection (8) above may include provision—

- (a) requiring the person from whom an amount is recoverable (“the beneficiary”) to disclose details of their employer, and any change of employer, to the Secretary of State or the authority which paid the benefit;
- (b) requiring the employer, on being served with a notice by the Secretary of State or the authority which paid the benefit, to make deductions from the earnings of the beneficiary and to pay corresponding amounts to the Secretary of State or that authority;
- (c) as to the matters to be contained in such a notice and the period for which a notice is to have effect;
- (d) as to how payment is to be made to the Secretary of State or the authority which paid the benefit;
- (e) as to a level of earnings below which earnings must not be reduced;
- (f) allowing the employer, where the employer makes deductions, to deduct a prescribed sum from the beneficiary's earnings in respect of the employer's administrative costs;
- (g) requiring the employer to keep records of deductions;
- (h) requiring the employer to notify the Secretary of State or the authority which paid the benefit if the beneficiary is not, or ceases to be, employed by the employer;
- (i) creating a criminal offence for non-compliance with the regulations, punishable on summary conviction by a fine not exceeding level 3 on the standard scale;
- (j) with respect to the priority as between a requirement to deduct from earnings under this section and—
  - (i) any other such requirement;
  - (ii) an order under any other enactment relating to England and Wales which requires deduction from the beneficiary's earnings;
  - (iii) any diligence against earnings.”

(4) In section 78 of that Act (recovery of social fund awards), after subsection (3B) there is inserted—

“(3C) Regulations may provide for amounts recoverable under subsection (1) above from a person specified in subsection (3) above to be recovered by deductions from earnings.

(3D) In subsection (3C) above “earnings” has such meaning as may be prescribed.

(3E) Regulations under subsection (3C) above may include provision referred to in section 71(9C) above.”



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### **107 Recovery of child benefit and guardian's allowance**

- (1) In section 71(8) of the Social Security Administration Act 1992 (recovery of benefits by deduction from prescribed benefits), the words “, other than an amount paid in respect of child benefit or guardian's allowance,” are repealed.
- (2) In section 69(8) of the Social Security Administration (Northern Ireland) Act 1992 (recovery of benefits by deduction from prescribed benefits), the words “, other than an amount paid in respect of child benefit or guardian's allowance,” are repealed.
- (3) In the Tax Credits Act 2002, in Schedule 4, paragraphs 2 and 8 are repealed.

### **108 Application of Limitation Act 1980**

- (1) Section 38 of the Limitation Act 1980 (interpretation) is amended as follows.
- (2) In subsection (1), in the definition of “action”, at the end there is inserted “(and see subsection (11) below)”.
- (3) At the end there is inserted—
  - “(11) References in this Act to an action do not include any method of recovery of a sum recoverable under—
    - (a) Part 3 of the Social Security Administration Act 1992,
    - (b) section 127(c) of the Social Security Contributions and Benefits Act 1992, or
    - (c) Part 1 of the Tax Credits Act 2002,other than a proceeding in a court of law.”
- (4) The amendments made by this section have effect as if they had come into force at the same time as section 38 of the Limitation Act 1980, except for the purposes of proceedings brought before the coming into force of this section.

#### *Recovery of fines from benefit*

### **109 Recovery of fines etc by deductions from employment and support allowance**

- (1) In section 24 of the Criminal Justice Act 1991 (recovery of fines etc by deductions from benefits)—
  - (a) in subsections (1) and (2)(d) the words “income-related” are repealed;
  - (b) in subsection (4) the definition of “income-related employment and support allowance” is repealed.
- (2) In Schedule 3 to the Welfare Reform Act 2007 (consequential amendments relating to Part 1), paragraph 8(b) is repealed.
- (3) The repeals made by this section have effect as if they had come into force on 27 October 2008.

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### Investigation and prosecution of offences

VALID FROM 17/06/2013

#### 110 Powers to require information relating to investigations

In section 109B of the Social Security Administration Act 1992 (power to require information), in subsection (2)—

- (a) after paragraph (i) (but before the final “and”) there is inserted—
  - “(ia) a person of a prescribed description;”;
- (b) in paragraph (j), for “(i)” there is substituted “(ia)”.

#### 111 Time limits for legal proceedings

In section 116 of the Social Security Administration Act 1992 (legal proceedings), in subsection (2)—

- (a) in paragraph (a), for “other than an offence relating to housing benefit or council tax benefit” there is substituted “(other than proceedings to which paragraph (b) applies)”;
- (b) in paragraph (b), after “proceedings” there is inserted “brought by the appropriate authority”.

VALID FROM 20/04/2016

#### 112 Prosecution powers of local authorities

- (1) The Social Security Administration Act 1992 is amended as follows.
- (2) After section 116 there is inserted—

##### “116ZA Local authority powers to prosecute housing benefit and council tax benefit fraud

- (1) This section applies to an authority administering housing benefit or council tax benefit.
- (2) The authority may not bring proceedings against a person for a benefit offence relating to either of those benefits unless—
  - (a) the authority has already started an investigation in relation to that person in respect of the offence,
  - (b) in a case where the proceedings relate to housing benefit, the authority has already started an investigation in relation to the person in respect of a benefit offence relating to council tax benefit, or has already brought proceedings against the person in respect of such an offence,
  - (c) in a case where the proceedings relate to council tax benefit, the authority has already started an investigation in relation to the person in respect of a benefit offence relating to housing benefit, or has

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- already brought proceedings against the person in respect of such an offence,
- (d) the proceedings arise in prescribed circumstances or are of a prescribed description, or
  - (e) the Secretary of State has directed that the authority may bring the proceedings.
- (3) The Secretary of State may direct that in prescribed circumstances, an authority may not bring proceedings by virtue of subsection (2)(a), (b) or (c) despite the requirements in those provisions being met.
- (4) A direction under subsection (2)(e) or (3) may relate to a particular authority or description of authority or to particular proceedings or any description of proceedings.
- (5) If the Secretary of State prescribes conditions for the purposes of this section, an authority may bring proceedings in accordance with this section only if any such condition is satisfied.
- (6) The Secretary of State may continue proceedings which have been brought by an authority in accordance with this section as if the proceedings had been brought in his name or he may discontinue the proceedings if—
- (a) the proceedings were brought by virtue of subsection (2)(a), (b) or (c),
  - (b) he makes provision under subsection (2)(d) which has the effect that the authority would no longer be entitled to bring the proceedings in accordance with this section,
  - (c) he withdraws a direction under subsection (2)(e) in relation to the proceedings, or
  - (d) a condition prescribed under subsection (5) ceases to be satisfied in relation to the proceedings.
- (7) In exercising a power to bring proceedings in accordance with this section, a local authority must have regard to the Code for Crown Prosecutors issued by the Director of Public Prosecutions under section 10 of the Prosecution of Offences Act 1985—
- (a) in determining whether the proceedings should be instituted;
  - (b) in determining what charges should be preferred;
  - (c) in considering what representations to make to a magistrates' court about mode of trial;
  - (d) in determining whether to discontinue proceedings.
- (8) Regulations shall define “an investigation in respect of a benefit offence” for the purposes of this section.
- (9) This section does not apply to Scotland.”
- (3) Section 116A (local authority powers to prosecute benefit fraud) is amended as follows.
- (4) In the heading, after “prosecute” there is inserted “ other ”.
- (5) In subsection (2)—
- (a) for “unless” there is substituted “ only if ”;

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(b) in paragraph (b), for “must not”, there is substituted “ may ”.

(6) In subsection (4)(b), for “gives” there is substituted “ withdraws ”.

### *Penalties as alternative to prosecution*

## **113 Penalty in respect of benefit fraud not resulting in overpayment**

(1) Section 115A of the Social Security Administration Act 1992 (penalty as alternative to prosecution) is amended as follows.

(2) After subsection (1) there is inserted—

“(1A) This section also applies where —

- (a) it appears to the Secretary of State or an authority that there are grounds for instituting proceedings against a person for an offence (under this Act or any other enactment) relating to an act or omission on the part of that person in relation to any benefit, and
- (b) if an overpayment attributable to the act or omission had been made, the overpayment would have been recoverable from the person by, or due from the person to, the Secretary of State or an authority under or by virtue of section 71, 71ZB, 71A, 75 or 76 above.”

(3) In subsection (2)(a) for “such proceedings” there is substituted “proceedings referred to in subsection (1) or (1A) above”.

(4) In subsection (4)—

- (a) in paragraph (a), after “is” there is inserted “ or would have been ”;
- (b) in paragraph (b), at the end there is inserted “or to the act or omission referred to in subsection (1A)(a).”

(5) In subsections (6) and (7), at the beginning there is inserted “In a case referred to in subsection (1)”.

(6) In subsection (7B)(a), after “is”, in both places, there is inserted “ or would have been ”.

(7) In subsection (8) after “subsection (1)(a)” there is inserted “ or (1A)(b) ”.

(8) In the Social Security Fraud Act 2001—

- (a) in section 6B(1)(b), the words “by reference to any overpayment” are repealed and for “the offence mentioned in subsection (1)(b) of the appropriate penalty provision” there is substituted “ the offence to which the notice relates ”;
- (b) in sections 6C(2)(b) and (3), 8(7)(b) and (8) and 9(7)(b) and (8), for “the overpayment” there is substituted “ any overpayment made ”.

### **Commencement Information**

**I12** S. 113 in force at 8.5.2012 by S.I. 2012/863, art. 2(3)(a)

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## 114 Amount of penalty

(1) In section 115A of the Social Security Administration Act 1992 (penalty as alternative to prosecution), for subsection (3) there is substituted—

“(3) The amount of the penalty in a case falling within subsection (1) is 50% of the amount of the overpayment (rounded down to the nearest whole penny), subject to—

- (a) a minimum amount of £350, and
- (b) a maximum amount of £2000.

(3A) The amount of the penalty in a case falling within subsection (1A) is £350.

(3B) The Secretary of State may by order amend—

- (a) the percentage for the time being specified in subsection (3);
- (b) any figure for the time being specified in subsection (3)(a) or (b) or (3A).”

(2) In section 190 of that Act (parliamentary control of orders and regulations), in subsection (1), before paragraph (za) there is inserted—

“(zza) an order under section 115A(3B);”.

### Commencement Information

**I13** S. 114 in force at 8.5.2012 by S.I. 2012/863, art. 2(3)(b)

## 115 Period for withdrawal of agreement to pay penalty

(1) The Social Security Administration Act 1992 is amended as follows.

(2) In section 115A (penalty as alternative to prosecution), in subsection (5) (cooling-off period), for “28” there is substituted “ 14 ”.

(3) In section 115B (penalty as alternative to prosecution: colluding employers etc), in subsection (6) (cooling-off period), for “28” there is substituted “ 14 ”.

### Commencement Information

**I14** S. 115 in force at 8.5.2012 by S.I. 2012/863, art. 2(3)(c)

## Civil penalties

## 116 Civil penalties for incorrect statements and failures to disclose information

(1) After section 115B of the Social Security Administration Act 1992 there is inserted—

“Civil penalties

### 115C Incorrect statements etc

(1) This section applies where—

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- (a) a person negligently makes an incorrect statement or representation, or negligently gives incorrect information or evidence—
    - (i) in or in connection with a claim for a relevant social security benefit, or
    - (ii) in connection with an award of a relevant social security benefit,
  - (b) the person fails to take reasonable steps to correct the error,
  - (c) the error results in the making of an overpayment, and
  - (d) the person has not been charged with an offence or cautioned, or been given a notice under section 115A, in respect of the overpayment.
- (2) A penalty of a prescribed amount may be imposed by the appropriate authority—
- (a) in any case, on the person;
  - (b) in a case where the person (“A”) is making, or has made, a claim for the benefit for a period jointly with another (“B”), on B instead of A.
- (3) Subsection (2)(b) does not apply if B was not, and could not reasonably be expected to have been, aware that A had negligently made the incorrect statement or representation or given the incorrect information or evidence.
- (4) A penalty imposed under subsection (2) is recoverable by the appropriate authority from the person on whom it is imposed.
- (5) Sections 71ZC, 71ZD and 71ZE apply in relation to amounts recoverable by the appropriate authority under subsection (4) as to amounts recoverable by the Secretary of State under section 71ZB (and, where the appropriate authority is not the Secretary of State, those sections so apply as if references to the Secretary of State were to that authority).
- (6) In this section and section 115D—
- “appropriate authority” means—
    - (a) the Secretary of State, or
    - (b) an authority which administers housing benefit or council tax benefit;
  - “overpayment” has the meaning given in section 115A(8), and the reference to the making of an overpayment is to be construed in accordance with that provision;
  - “relevant social security benefit” has the meaning given in section 121DA(7).

### **115D Failure to disclose information**

- (1) A penalty of a prescribed amount may be imposed on a person by the appropriate authority where—
- (a) the person, without reasonable excuse, fails to provide information or evidence in accordance with requirements imposed on the person by the appropriate authority in connection with a claim for, or an award of, a relevant social security benefit,
  - (b) the failure results in the making of an overpayment, and
  - (c) the person has not been charged with an offence or cautioned, or been given a notice under section 115A, in respect of the overpayment.

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- (2) A penalty of a prescribed amount may be imposed on a person by the appropriate authority where—
    - (a) the person, without reasonable excuse, fails to notify the appropriate authority of a relevant change of circumstances in accordance with requirements imposed on the person under relevant social security legislation,
    - (b) the failure results in the making of an overpayment, and
    - (c) the person has not been charged with an offence or cautioned, or been given a notice under section 115A, in respect of the overpayment.
  - (3) Where a person is making, or has made, a claim for a benefit for a period jointly with another, and both of them fail as mentioned in subsection (1) or (2), only one penalty may be imposed in respect of the same overpayment.
  - (4) A penalty imposed under subsection (1) or (2) is recoverable by the appropriate authority from the person on whom it is imposed.
  - (5) Sections 71ZC, 71ZD and 71ZE apply in relation to amounts recoverable by the appropriate authority under subsection (4) as to amounts recoverable by the Secretary of State under section 71ZB (and, where the appropriate authority is not the Secretary of State, those sections so apply as if references to the Secretary of State were to that authority).
  - (6) In this section “relevant change of circumstances”, in relation to a person, means a change of circumstances which affects any entitlement of the person to any benefit or other payment or advantage under any provision of the relevant social security legislation.”
- (2) In section 190 of that Act (parliamentary control of orders and regulations), in subsection (1), before paragraph (za) there is inserted—  
“(zzb) regulations under section 115C(2) or 115D(1) or (2);”.

#### Commencement Information

- I15** S. 116(1) in force at 10.5.2012 for specified purposes by S.I. 2012/1246, art. 2(1)(a)  
**I16** S. 116(2) in force at 10.5.2012 by S.I. 2012/1246, art. 2(1)(b)

VALID FROM 01/02/2013

#### *Loss of benefit*

VALID FROM 01/04/2013

#### **117 Benefit offences: disqualifying and sanctionable benefits**

- (1) In the Social Security Fraud Act 2001, section 6A (meaning of “disqualifying benefit” and “sanctionable benefit”) is amended as follows.
- (2) In subsection (1), in the definition of “disqualifying benefit”, after paragraph (e) there is inserted—

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- “(f) child tax credit;  
 (g) working tax credit;”.

(3) In that subsection, in the definition of “sanctionable benefit”, after paragraph (f) there is inserted—

- “(fa) child tax credit;  
 (fb) working tax credit;”.

VALID FROM 25/02/2013

### 118 Benefit offences: period of sanction

- (1) The Social Security Fraud Act 2001 is amended as follows.
- (2) Section 6B (loss of benefit in case of conviction, penalty or caution for benefit offence) is amended as follows.
- (3) In subsection (11), for “the period of four weeks” there is substituted “ the relevant period ”.
- (4) After subsection (11) there is inserted—

“(11A) For the purposes of subsection (11) the relevant period is—

- (a) in a case falling within subsection (1)(a) where the benefit offence, or one of them, is a relevant offence, the period of three years,  
 (b) in a case falling within subsection (1)(a) (but not within paragraph (a) above), the period of 13 weeks, or  
 (c) in a case falling within subsection (1)(b) or (c), the period of four weeks.”

(5) After subsection (13) there is inserted—

“(14) In this section and section 7 “relevant offence” means—

- (a) in England and Wales, the common law offence of conspiracy to defraud, or  
 (b) a prescribed offence which, in the offender's case, is committed in such circumstances as may be prescribed, and which, on conviction—  
 (i) is found by the court to relate to an overpayment (as defined in section 115A(8) of the Administration Act) of at least £50,000,  
 (ii) is punished by a custodial sentence of at least one year (including a suspended sentence as defined in section 189(7)(b) of the Criminal Justice Act 2003), or  
 (iii) is found by the court to have been committed over a period of at least two years.”

(6) After subsection (14) (inserted by subsection (5) above) there is inserted—



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“(15) The Secretary of State may by order amend subsection (11A)(a), (b) or (c), or (14)(b)(i), (ii) or (iii) to substitute a different period or amount for that for the time being specified there.”

(7) In section 7 (loss of benefit for second or subsequent conviction of benefit offence), after subsection (1) there is inserted—

“(1A) The following restrictions do not apply if the benefit offence referred to in subsection (1)(a), or any of them, is a relevant offence.”

(8) In section 11 (loss of benefit regulations)—

(a) in the heading, after “benefit” there is inserted “ orders and ”;

(b) in subsection (3) at the end there is inserted—

“(e) regulations under section 6B(14) or an order under section 6B(15), or”;

(c) in subsection (4) after “make”, in both places, there is inserted “ an order or ”.

VALID FROM 01/04/2013

## **119 Benefit offences: sanctions for repeated benefit fraud**

(1) The Social Security Fraud Act 2001 is amended as follows.

(2) In section 6B (loss of benefit in case of conviction, penalty or caution for benefit offence), in subsection (3) for “later“ there is substituted “ current ”.

(3) Section 7 (loss of benefit for second or subsequent conviction of benefit offence) is amended as follows.

(4) In the heading, for “second or subsequent conviction of benefit offence” there is substituted “repeated benefit fraud“.

(5) For subsection (1)(a) to (e) there is substituted—

“(a) a person (“the offender”) is convicted of one or more benefit offences in a set of proceedings (“the current set of proceedings”),

(b) within the period of five years ending on the date on which the benefit offence was, or any of them were, committed, one or more disqualifying events occurred in relation to the offender (the event, or the most recent of them, being referred to in this section as “the earlier disqualifying event”),

(c) the current set of proceedings has not been taken into account for the purposes of any previous application of this section or section 8 or 9 in relation to the offender or any person who was then a member of his family,

(d) the earlier disqualifying event has not been taken into account as an earlier disqualifying event for the purposes of any previous application of this section or either of those sections in relation to the offender or any person who was then a member of his family, and

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- (e) the offender is a person with respect to whom the conditions for an entitlement to a sanctionable benefit are or become satisfied at any time within the disqualification period.”
- (6) In subsection (6), for the words from “in relation to” to the end, there is substituted “ in an offender’s case, means the relevant period beginning with a prescribed date falling after the date of the conviction in the current set of proceedings ”.
- (7) After that subsection there is inserted—
- “(6A) For the purposes of subsection (6) the relevant period is—
- (a) in a case where, within the period of five years ending on the date on which the earlier disqualifying event occurred, a previous disqualifying event occurred in relation to the offender, the period of three years;
- (b) in any other case, 26 weeks.”
- (8) After subsection (7) there is inserted—
- “(7A) Subsection (7B) applies where, after the agreement of any person (“P”) to pay a penalty under the appropriate penalty provision is taken into account for the purposes of the application of this section in relation to that person—
- (a) P’s agreement to pay the penalty is withdrawn under subsection (5) of the appropriate penalty provision,
- (b) it is decided on an appeal or in accordance with regulations under the Social Security Act 1998 or the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) that any overpayment to which the agreement relates is not recoverable or due, or
- (c) the amount of any overpayment to which the penalty relates is revised on an appeal or in accordance with regulations under the Social Security Act 1998 or the Social Security (Northern Ireland) Order 1998 and there is no new agreement by P to pay a penalty under the appropriate penalty provision in relation to the revised overpayment.
- (7B) In those circumstances, all such payments and other adjustments shall be made as would be necessary if no restriction had been imposed by or under this section that could not have been imposed if P had not agreed to pay the penalty.”
- (9) In subsection (8), the following definitions are inserted at the appropriate places—
- ““appropriate penalty provision” has the meaning given in section 6B(2)(a);”
- ““disqualifying event” has the meaning given in section 6B(13).”
- (10) After that subsection there is inserted—
- “(8A) Where a person is convicted of more than one benefit offence in the same set of proceedings, there is to be only one disqualifying event in respect of that set of proceedings for the purposes of this section and—
- (a) subsection (1)(b) is satisfied if any of the convictions take place in the five year periods mentioned there;

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- (b) the event is taken into account for the purposes of subsection (1)(d) if any of the convictions have been taken into account as mentioned there;
- (c) in the case of the earlier disqualifying event mentioned in subsection (6A)(a), the reference there to the date on which the earlier disqualifying event occurred is a reference to the date on which any of the convictions take place;
- (d) in the case of the previous disqualifying event mentioned in subsection (6A)(a), that provision is satisfied if any of the convictions take place in the five year period mentioned there.”

(11) After subsection (10) there is inserted—

“(10A) The Secretary of State may by order amend subsection (6A) to substitute different periods for those for the time being specified there.

(10B) An order under subsection (10A) may provide for different periods to apply according to the type of earlier disqualifying event or events occurring in any case”.

(12) In section 11 (loss of benefit regulations), in subsection (3), after paragraph (e) (as inserted by section 118 above) there is inserted—

“(f) an order under section 7(10A).”.

## 120 Loss of tax credits

(1) The Tax Credits Act 2002 is amended as follows.

(2) After section 36 there is inserted—

*“Loss of tax credit provisions*

### **36A Loss of working tax credit in case of conviction etc for benefit offence**

(1) Subsection (4) applies where a person (“the offender”)—

- (a) is convicted of one or more benefit offences in any proceedings, or
- (b) after being given a notice under subsection (2) of the appropriate penalty provision by an appropriate authority, agrees in the manner specified by the appropriate authority to pay a penalty under the appropriate penalty provision to the appropriate authority, in a case where the offence to which the notice relates is a benefit offence, or
- (c) is cautioned in respect of one or more benefit offences.

(2) In subsection (1)(b)—

- (a) “the appropriate penalty provision” means section 115A of the Social Security Administration Act 1992 (penalty as alternative to prosecution) or section 109A of the Social Security Administration (Northern Ireland) Act 1992 (the corresponding provision for Northern Ireland);
- (b) “appropriate authority” means—

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- (i) in relation to section 115A of the Social Security Administration Act 1992, the Secretary of State or an authority which administers housing benefit or council tax benefit, and
  - (ii) in relation to section 109A of the Social Security Administration (Northern Ireland) Act 1992, the Department (within the meaning of that Act) or the Northern Ireland Housing Executive.
- (3) Subsection (4) does not apply by virtue of subsection (1)(a) if, because the proceedings in which the offender was convicted constitute the current set of proceedings for the purposes of section 36C, the restriction in subsection (3) of that section applies in the offender's case.
- (4) If this subsection applies and the offender is a person who would, apart from this section, be entitled (whether pursuant to a single or joint claim) to working tax credit at any time within the disqualification period, then, despite that entitlement, working tax credit shall not be payable for any period comprised in the disqualification period—
- (a) in the case of a single claim, to the offender, or
  - (b) in the case of a joint claim, to the offender or the other member of the couple.
- (5) Regulations may provide in relation to cases to which subsection (4)(b) would otherwise apply that working tax credit shall be payable, for any period comprised in the disqualification period, as if the amount payable were reduced in such manner as may be prescribed.
- (6) For the purposes of this section, the disqualification period, in relation to any disqualifying event, means the relevant period beginning with such date, falling after the date of the disqualifying event, as may be determined by or in accordance with regulations.
- (7) For the purposes of subsection (6) the relevant period is—
- (a) in a case falling within subsection (1)(a) where the benefit offence, or one of them, is a relevant offence, the period of three years,
  - (b) in a case falling within subsection (1)(a) (but not within paragraph (a) above), the period of 13 weeks, or
  - (c) in a case falling within subsection (1)(b) or (c), the period of 4 weeks.
- (8) The Treasury may by order amend subsection (7)(a), (b) or (c) to substitute a different period for that for the time being specified there.
- (9) This section has effect subject to section 36B.
- (10) In this section and section 36B—
- “benefit offence“ means any of the following offences committed on or after the day specified by order made by the Treasury—
- (a) an offence in connection with a claim for a disqualifying benefit;
  - (b) an offence in connection with the receipt or payment of any amount by way of such a benefit;

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(c) an offence committed for the purpose of facilitating the commission (whether or not by the same person) of a benefit offence;

(d) an offence consisting in an attempt or conspiracy to commit a benefit offence;

“disqualifying benefit” has the meaning given in section 6A(1) of the Social Security Fraud Act 2001;

“disqualifying event” means—

(a) the conviction falling within subsection (1)(a);

(b) the agreement falling within subsection (1)(b);

(c) the caution falling within subsection (1)(c);

“relevant offence” has the meaning given in section 6B of the Social Security Fraud Act 2001.

### **36B Section 36A: supplementary**

(1) Where—

(a) the conviction of any person of any offence is taken in account for the purposes of the application of section 36A in relation to that person, and

(b) that conviction is subsequently quashed,

all such payments and other adjustments shall be made as would be necessary if no restriction had been imposed by or under section 36A that could not have been imposed if the conviction had not taken place.

(2) Where, after the agreement of any person (“P”) to pay a penalty under the appropriate penalty provision is taken into account for the purposes of the application of section 36A in relation to that person—

(a) P’s agreement to pay the penalty is withdrawn under subsection (5) of the appropriate penalty provision, or

(b) it is decided on an appeal or in accordance with regulations under the Social Security Act 1992 or the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) that the overpayment to which the agreement relates is not recoverable or due,

all such payments and other adjustments shall be made as would be necessary if no restriction had been imposed by or under section 36A that could not have been imposed if P had not agreed to pay the penalty.

(3) Where, after the agreement (“the old agreement”) of any person (“P”) to pay a penalty under the appropriate penalty provision is taken into account for the purposes of the application of section 36A in relation to P, the amount of any overpayment made to which the penalty relates is revised on an appeal or in accordance with regulations under the Social Security Act 1998 or the Social Security (Northern Ireland) Order 1998—

(a) section 36A shall cease to apply by virtue of the old agreement, and

(b) subsection (4) shall apply.

(4) Where this subsection applies—

(a) if there is a new disqualifying event consisting of—

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- (i) P's agreement to pay a penalty under the appropriate penalty regime in relation to the revised overpayment, or
- (ii) P being cautioned in relation to the offence to which the old agreement relates,

the disqualification period relating to the new disqualifying event shall be reduced by the number of days in so much of the disqualification period relating to the old agreement as had expired when subsection 36A ceased to apply by virtue of the old agreement, and

- (b) in any other case, all such payments and other adjustments shall be made as would be necessary if no restriction had been imposed by or under section 36A that could not have been imposed if P had not agreed to pay the penalty.

(5) For the purposes of section 36A—

- (a) the date of a person's conviction in any proceedings of a benefit offence shall be taken to be the date on which the person was found guilty of that offence in those proceedings (whenever the person was sentenced) or in the case mentioned in paragraph (b)(ii) the date of the order for absolute discharge, and
- (b) references to a conviction include references to—
  - (i) a conviction in relation to which the court makes an order for absolute or conditional discharge,
  - (ii) an order for absolute discharge made by a court of summary jurisdiction in Scotland under section 246(3) of the Criminal Procedure (Scotland) Act 1995 without proceeding to a conviction, and
  - (iii) a conviction in Northern Ireland.

(6) In this section “the appropriate penalty provision” has the meaning given by section 36A(2)(a).

### **36C Loss of working tax credit for repeated benefit fraud**

(1) If—

- (a) a person (“the offender”) is convicted of one or more benefit offences in a set of proceedings (“the current set of proceedings”),
- (b) within the period of five years ending on the date on which the benefit offence was, or any of them were, committed, one or more disqualifying events occurred in relation to the offender (the event, or the most recent of them, being referred to in this section as “the earlier disqualifying event”),
- (c) the current set of proceedings has not been taken into account for the purposes of any previous application of this section in relation to the offender,
- (d) the earlier disqualifying event has not been taken into account as an earlier disqualifying event for the purposes of any previous application of this section in relation to the offender, and
- (e) the offender is a person who would, apart from this section, be entitled (whether pursuant to a single or joint claim) to working tax credit at any time within the disqualification period,

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then, despite that entitlement, the restriction in subsection (3) shall apply in relation to the payment of that benefit in the offender's case.

- (2) The restriction in subsection (3) does not apply if the benefit offence referred to in subsection (1)(a), or any of them, is a relevant offence.
- (3) Working tax credit shall not be payable for any period comprised in the disqualification period—
  - (a) in the case of a single claim, to the offender, or
  - (b) in the case of a joint claim, to the offender or the other member of the couple.
- (4) Regulations may provide in relation to cases to which subsection (3)(b) would otherwise apply that working tax credit shall be payable, for any period comprised in the disqualification period, as if the amount payable were reduced in such manner as may be prescribed.
- (5) For the purposes of this section the disqualification period, in an offender's case, means the relevant period beginning with a prescribed date falling after the date of the conviction in the current set of proceedings.
- (6) For the purposes of subsection (5) the relevant period is—
  - (a) in a case where, within the period of five years ending on the date on which the earlier disqualifying event occurred, a previous disqualifying event occurred in relation to the offender, the period of three years;
  - (b) in any other case, 26 weeks.
- (7) In this section and section 36D—

“appropriate penalty provision” has the meaning given in section 36A(2)(a);

“benefit offence” means any of the following offences committed on or after the day specified by order made by the Treasury—

  - (a) an offence in connection with a claim for a disqualifying benefit;
  - (b) an offence in connection with the receipt or payment of any amount by way of such a benefit;
  - (c) an offence committed for the purpose of facilitating the commission (whether or not by the same person) of a benefit offence;
  - (d) an offence consisting in an attempt or conspiracy to commit a benefit offence;

“disqualifying benefit” has the meaning given in section 6A(1) of the Social Security Fraud Act 2001;

“disqualifying event” has the meaning given in section 36A(10);

“relevant offence” has the meaning given in section 6B of the Social Security Fraud Act 2001.
- (8) Where a person is convicted of more than one benefit offence in the same set of proceedings, there is to be only one disqualifying event in respect of that set of proceedings for the purposes of this section and—
  - (a) subsection (1)(b) is satisfied if any of the convictions take place in the five year period there;

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- (b) the event is taken into account for the purposes of subsection (1)(d) if any of the convictions have been taken into account as mentioned there;
  - (c) in the case of the earlier disqualifying event mentioned in subsection (6)(a), the reference there to the date on which the earlier disqualifying event occurred is a reference to the date on which any of the convictions take place;
  - (d) in the case of the previous disqualifying event mentioned in subsection (6)(a), that provision is satisfied if any of the convictions take place in the five year period mentioned there.
- (9) The Treasury may by order amend subsection (6) to substitute different periods for those for the time being specified there.
- (10) An order under subsection (9) may provide for different periods to apply according to the type of earlier disqualifying event or events occurring in any case.
- (11) This section has effect subject to section 36D.

### **36D Section 36C: supplementary**

- (1) Where—
- (a) the conviction of any person of any offence is taken into account for the purposes of the application of section 36C in relation to that person, and
  - (b) that conviction is subsequently quashed,
- all such payments and other adjustments shall be made as would be necessary if no restriction had been imposed by or under section 36C that could not have been imposed if the conviction had not taken place.
- (2) Subsection (3) applies where, after the agreement of any person (“P”) to pay a penalty under the appropriate penalty provision is taken into account for the purposes of the application of section 36C in relation to that person—
- (a) P's agreement to pay the penalty is withdrawn under subsection (5) of the appropriate penalty provision,
  - (b) it is decided on an appeal or in accordance with regulations under the Social Security Act 1998 or the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) that any overpayment made to which the agreement relates is not recoverable or due, or
  - (c) the amount of any over payment to which the penalty relates is revised on an appeal or in accordance with regulations under the Social Security Act 1998 or the Social Security (Northern Ireland) Order 1998 and there is no new agreement by P to pay a penalty under the appropriate penalty provision in relation to the revised overpayment.
- (3) In those circumstances, all such payments and other adjustments shall be made as would be necessary if no restriction had been imposed by or under section 36C that could not have been imposed if P had not agreed to pay the penalty.
- (4) For the purposes of section 36C—



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- (a) the date of a person's conviction in any proceedings of a benefit offence shall be taken to be the date on which the person was found guilty of that offence in those proceedings (whenever the person was sentenced) or in the case mentioned in paragraph (b)(ii) the date of the order for absolute discharge, and
  - (b) references to a conviction include references to—
    - (i) a conviction in relation to which the court makes an order for absolute or conditional discharge,
    - (ii) an order for absolute discharge made by a court of summary jurisdiction in Scotland under section 246(3) of the Criminal Procedure (Scotland) Act 1995 without proceeding to a conviction, and
    - (iii) a conviction in Northern Ireland.
- (5) In section 36C references to any previous application of that section—
- (a) include references to any previous application of a provision having an effect in Northern Ireland corresponding to provision made by that section, but
  - (b) do not include references to any previous application of that section the effect of which was to impose a restriction for a period comprised in the same disqualification period.”
- (3) In section 38 (appeals), in subsection (1)—
- (a) the “and” immediately following paragraph (c) is repealed;
  - (b) after that paragraph there is inserted—
    - “(ca) a decision under section 36A or 36C that working tax credit is not payable (or is not payable for a particular period), and”.
- (4) In section 66 (parliamentary etc control of instruments)—
- (a) in subsection (1)—
    - (i) after “no” there is inserted “ order or ”;
    - (ii) for “them” there is substituted “ the order or regulations ”;
  - (b) in subsection (2) before paragraph (a) there is inserted—
    - “(za) an order made by the Treasury under section 36A(8) or 36C(9),
    - (zb) regulations made under section 36A(5) or 36C(4),”;
  - (c) in subsection (3)(a) at the beginning there is inserted “an order or”.
- (5) In section 67 (interpretation), at the appropriate place there is inserted—
- ““cautioned”, in relation to any person and any offence, means cautioned after the person concerned has admitted the offence; and “caution” is to be interpreted accordingly;”.

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PROSPECTIVE

### 121 Cautions

- (1) In section 6B of the Social Security Fraud Act 2001 (loss of benefit in case of conviction, penalty or caution for benefit offence)—
  - (a) in the heading, for “penalty or caution” there is substituted “ or penalty ”;
  - (b) in subsection (1), after paragraph (a) there is inserted “or”;
  - (c) subsection (1)(c) (cautions) is repealed;
  - (d) in subsection (13), in the definition of “disqualifying event”, after “(1)(a)” there is inserted “or”.
- (2) In section 36A of the Tax Credits Act 2002 (loss of tax working tax credit in case of conviction, penalty or caution for benefit offence) subsection (1)(c) (cautions) is repealed.

*Administration of tax credits*

### 122 Tax credit fraud: investigation

In section 109A of the Social Security Administration Act 1992 (authorisations for investigators), at the end there is inserted—

- “(9) This section and sections 109B to 109C below apply as if—
- (a) the Tax Credits Act 2002 were relevant social security legislation, and
  - (b) accordingly, child tax credit and working tax credit were relevant social security benefits for the purposes of the definition of “benefit offence”.

#### Commencement Information

**I17** S. 122 in force at 6.6.2012 by S.I. 2012/1246, art. 2(2) (as amended (31.5.2012) by S.I. 2012/1440, art. 2)

### 123 Information-sharing for prevention etc of tax credit fraud

- (1) Section 122B of the Social Security Administration Act 1992 (supply of government information for fraud prevention etc) is amended as follows.
- (2) In subsection (2)(a), after “social security” there is inserted “ or tax credits ”.
- (3) In subsection (3)—
  - (a) in paragraph (b), after “1995” there is inserted “ , the Tax Credits Act 2002 ”,
  - (b) in that paragraph, the final “or” is repealed, and
  - (c) after paragraph (c) there is inserted “or
  - (d) it is supplied under section 127 of the Welfare Reform Act 2012.”

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### Commencement Information

**I18** S. 123 in force at 6.6.2012 by S.I. 2012/1246, art. 2(2) (as amended (31.5.2012) by S.I. 2012/1440, art. 2)

PROSPECTIVE

## 124 Tax credit fraud: prosecution and penalties

In section 35 of the Tax Credits Act 2002 (offence of fraud), for subsection (2) there is substituted—

- “(2) Where a person is alleged to have committed an offence under this section in relation to payments of a tax credit not exceeding £20,000, the offence is triable summarily only.
- (3) A person who commits an offence under this section is liable on summary conviction pursuant to subsection (2) to imprisonment for a term not exceeding the applicable term, or a fine not exceeding level 5 on the standard scale, or both.
- (4) In subsection (3) the applicable term is—
- (a) for conviction in England and Wales, 51 weeks;
  - (b) for conviction in Scotland or Northern Ireland, 6 months.
- (5) Where a person is alleged to have committed an offence under this section in any other case, the offence is triable either on indictment or summarily.
- (6) A person who commits an offence under this section is liable—
- (a) on summary conviction pursuant to subsection (5), to imprisonment for a term not exceeding the applicable term, or a fine not exceeding the statutory maximum, or both;
  - (b) on conviction on indictment pursuant to subsection (5) to imprisonment for a term not exceeding 7 years, or a fine, or both.
- (7) In subsection (6)(a) the applicable term is—
- (a) for conviction in England and Wales or Scotland, 12 months;
  - (b) for conviction in Northern Ireland, 6 months.
- (8) In relation to an offence under this section committed in England and Wales before the commencement of section 281(5) of the Criminal Justice Act 2003, the reference in subsection (4)(a) to 51 weeks is to be read as a reference to 6 months.
- (9) In relation to an offence under this section committed in England and Wales before the commencement of section 154(1) of the Criminal Justice Act 2003, the reference in subsection (7)(a) to 12 months is to be read as a reference to 6 months.
- (10) In England and Wales—

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- (a) subsection (1) of section 116 of the Social Security Administration Act 1992 (legal proceedings) applies in relation to proceedings for an offence under this section;
  - (b) subsections (2)(a) and (3)(a) of that section apply in relation to proceedings for an offence under this section which is triable summarily only pursuant to subsection (2) above.
- (11) In Scotland, subsection (7)(a) and (b) of section 116 of the Social Security Administration Act 1992 (legal proceedings) apply in relation to proceedings for an offence under this section which is triable summarily only pursuant to subsection (2) above.
- (12) In Northern Ireland—
- (a) subsection (1) of section 110 of the Social Security Administration (Northern Ireland) Act 1992 (legal proceedings) applies in relation to proceedings for an offence under this section;
  - (b) subsections (2)(a) and (3)(a) of that section apply in relation to proceedings for an offence under this section which is triable summarily only pursuant to subsection (2) above.”

## 125 Unauthorised disclosure of information relating to tax credit offences

In Schedule 4 to the Social Security Administration Act 1992 (persons employed in social security administration or adjudication), in paragraph 1 of Part 2, after “security,” there is inserted “ to the investigation or prosecution of offences relating to tax credits, ”.

### Commencement Information

**I19** S. 125 in force at 6.6.2012 by S.I. 2012/1246, art. 2(2) (as amended (31.5.2012) by S.I. 2012/1440, art. 2)

## 126 Tax credits: transfer of functions etc

- (1) Her Majesty may by Order in Council—
- (a) transfer to the Secretary of State any tax credit function of the Treasury or the Commissioners;
  - (b) direct that any tax credit function of the Treasury or the Commissioners is to be exercisable concurrently with the Secretary of State or is to cease to be so exercisable.
- (2) Provision within subsection (1) may be limited so as to apply only in relation to cases within a specified description.
- (3) Her Majesty may by Order in Council, as Her Majesty considers appropriate—
- (a) make provision in connection with a transfer or direction under subsection (1);
  - (b) make other provision within one or more of the following sub-paragraphs—
    - (i) provision applying (with or without modifications) in relation to tax credits any provision of primary or secondary legislation relating to social security;

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- (ii) provision combining or linking any aspect of the payment and management of tax credits with any aspect of the administration of social security;
  - (iii) provision about the use or supply of information held for purposes connected with tax credits, including (in particular) provision authorising or requiring its use or supply for other purposes;
  - (iv) in relation to information held for purposes not connected with tax credits, provision authorising or requiring its use or supply for purposes connected with tax credits.
- (4) An Order may make provision under subsection (3)(b) only if—
  - (a) the Order also makes provision under subsection (1), or
  - (b) a previous Order has made provision under subsection (1).
- (5) Provision within subsection (3)—
  - (a) may confer functions on, or remove functions from, the Secretary of State, the Treasury, the Commissioners, a Northern Ireland department or any other person;
  - (b) may (in particular) authorise the Secretary of State and the Commissioners to enter into arrangements from time to time under which the Commissioners are to provide services to the Secretary of State in connection with tax credits.
- (6) Provision within subsection (3)—
  - (a) may expand the scope of the conduct which constitutes an offence under any primary or secondary legislation, but may not increase the scope of any punishment for which a person may be liable on conviction for the offence;
  - (b) may expand the scope of the conduct in respect of which a civil penalty may be imposed under any primary or secondary legislation, but may not increase the maximum amount of the penalty.
- (7) An Order under this section may include such consequential, supplementary, incidental or transitional provision as Her Majesty considers appropriate including (for example)—
  - (a) provision for transferring or apportioning property, rights or liabilities (whether or not they would otherwise be capable of being transferred or apportioned);
  - (b) provision for substituting any person for any other person in any instrument or other document or in any legal proceedings;
  - (c) provision with respect to the application in relation to the Crown of provision made by the Order.
- (8) A certificate issued by the Secretary of State that any property, rights or liabilities set out in the certificate have been transferred or apportioned by an Order under this section as set out in the certificate is conclusive evidence of the matters so set out.
- (9) An Order under this section may amend, repeal or revoke any primary or secondary legislation.
- (10) A statutory instrument containing an Order under this section is subject to annulment in pursuance of a resolution of either House of Parliament.
- (11) In this section references to tax credits are to child tax credit or working tax credit or both.

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- (12) In this section references to primary or secondary legislation are to such legislation whenever passed or made.
- (13) In this section—
- “the Commissioners” means the Commissioners for Her Majesty's Revenue and Customs;
  - “primary legislation” means an Act (including this Act) or Northern Ireland legislation;
  - “secondary legislation” means an instrument made under primary legislation (including an Order under this section);
  - “tax credit functions” means functions so far as relating to tax credits conferred by or under any primary or secondary legislation.
- (14) In section 5A(3) of the Ministers of the Crown Act 1975, for “section 5(1)” there is substituted “section 5(1)(a) or (b)”.

*Information-sharing: Secretary of State and HMRC*

**127 Information-sharing between Secretary of State and HMRC**

- (1) This subsection applies to information which is held for the purposes of any HMRC functions—
- (a) by the Commissioners for Her Majesty's Revenue and Customs, or
  - (b) by a person providing services to them.
- (2) Information to which subsection (1) applies may be supplied—
- (a) to the Secretary of State, or to a person providing services to the Secretary of State, or
  - (b) to a Northern Ireland Department, or to a person providing services to a Northern Ireland Department,
- for use for the purposes of departmental functions.
- (3) This subsection applies to information which is held for the purposes of any departmental functions—
- (a) by the Secretary of State, or by a person providing services to the Secretary of State, or
  - (b) by a Northern Ireland Department, or by a person providing services to a Northern Ireland Department.
- (4) Information to which subsection (3) applies may be supplied—
- (a) to the Commissioners for Her Majesty's Revenue and Customs, or
  - (b) to a person providing services to them,
- for use for the purposes of HMRC functions.
- (5) Information supplied under this section must not be supplied by the recipient of the information to any other person or body without—
- (a) the authority of the Commissioners for Her Majesty's Revenue and Customs, in the case of information supplied under subsection (2);
  - (b) the authority of the Secretary of State, in the case of information held as mentioned in subsection (3)(a) and supplied under subsection (4);

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- (c) the authority of the relevant Northern Ireland Department, in the case of information held as mentioned in subsection (3)(b) and supplied under subsection (4).
- (6) Where information supplied under this section has been used for the purposes for which it was supplied, it is lawful for it to be used for any purposes for which information held for those purposes could be used.
- (7) In this section—
  - “departmental functions” means functions relating to—
    - (a) social security,
    - (b) employment or training, or
    - (c) the investigation or prosecution of offences relating to tax credits;
  - “HMRC function” means any function—
    - (a) for which the Commissioners for Her Majesty's Revenue and Customs are responsible by virtue of section 5 of the Commissioners for Revenue and Customs Act 2005, or
    - (b) which relates to a matter listed in Schedule 1 to that Act;
  - “Northern Ireland Department” means any of the following—
    - (a) the Department for Social Development;
    - (b) the Department of Finance and Personnel;
    - (c) the Department for Employment and Learning.
- (8) For the purposes of this section any reference to functions relating to social security includes a reference to functions relating to—
  - (a) statutory payments as defined in section 4C(11) of the Social Security Contributions and Benefits Act 1992;
  - (b) maternity allowance under section 35 of that Act;
  - (c) statutory payments as defined in section 4C(11) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;
  - (d) maternity allowance under section 35 of that Act.
- (9) This section does not limit the circumstances in which information may be supplied apart from this section.
- (10) In section 3 of the Social Security Act 1998 (use of information), in subsection (1A), after paragraph (d) there is inserted—
  - “(e) the investigation or prosecution of offences relating to tax credits.”

*Information-sharing: Secretary of State and DPP*

**128 Information-sharing between Secretary of State and DPP**

- (1) The Secretary of State may supply social security information to a person specified in subsection (2) for use for a purpose specified in subsection (3).
- (2) The persons referred to in subsection (1) are—
  - (a) the Director of Public Prosecutions;
  - (b) a person appointed under section 5 of the Prosecution of Offences Act 1985 (conduct of prosecutions on behalf of Crown Prosecution Service).

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- (3) The purposes referred to in subsection (1) are—
- (a) the institution or conduct of criminal proceedings which relate wholly or partly to social security matters;
  - (b) the giving of advice to any person on any matter relating to criminal proceedings, or criminal offences, which relate wholly or partly to social security matters;
  - (c) the exercise in relation to social security matters of functions assigned to the Director of Public Prosecutions under section 3(2)(g) of the Prosecution of Offences Act 1985;
  - (d) the exercise of functions of the Director of Public Prosecutions under Part 2, 5 or 8 of the Proceeds of Crime Act 2002.
- (4) The reference in subsection (1) to the Secretary of State includes a person providing services to the Secretary of State.
- (5) This section does not limit the circumstances in which information may be supplied apart from this section.
- (6) In this section—
- “social security information” means information held for the purposes of any of the Secretary of State’s functions relating to social security matters;
- “social security matters” means—
- (a) social security (including the payments and allowances referred to in section 127(8)),
  - (b) tax credits, and
  - (c) schemes and arrangements under section 2 of the Employment and Training Act 1973.

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**Commencement Information**

**I20** S. 128 in force at 20.3.2012 by S.I. 2012/863, art. 2(1)(d)

**129 Unlawful disclosure of information supplied under section 128**

- (1) A person to whom information is supplied under section 128, or an employee or former employee of such a person, may not disclose the information if it relates to a particular person.
- (2) Subsection (1) does not apply to—
- (a) a disclosure of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it;
  - (b) a disclosure made for the purposes of a function of the Director of Public Prosecutions, where the disclosure does not contravene any restriction imposed by the Director;
  - (c) a disclosure made to the Secretary of State, or a person providing services to the Secretary of State, for the purposes of the exercise of functions relating to social security matters (within the meaning of section 128);
  - (d) a disclosure made for the purposes of a criminal investigation or criminal proceedings (whether or not in the United Kingdom);
  - (e) a disclosure made for the purposes of—



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- (i) the exercise of any functions of the prosecutor under Parts 2, 3 and 4 of the Proceeds of Crime Act 2002;
  - (ii) the exercise of any functions of the Serious Organised Crime Agency under that Act;
  - (iii) the exercise of any functions of the Director of the Serious Fraud Office, the Director of Public Prosecutions for Northern Ireland or the Scottish Ministers under, or in relation to, Part 5 or 8 of that Act;
  - (iv) investigations or proceedings outside the United Kingdom which have led or may lead to the making of an external order within the meaning of section 447 of that Act;
- (f) a disclosure made to a person exercising public functions of law enforcement for the purposes of the exercise of those functions in civil proceedings;
  - (g) a disclosure which in the opinion of the Director of Public Prosecutions is desirable for the purpose of safeguarding national security;
  - (h) a disclosure made in pursuance of an order of a court;
  - (i) a disclosure made with the consent of each person to whom the information relates.
- (3) Subsection (1) does not apply in relation to information relating to schemes and arrangements under section 2 of the Employment and Training Act 1973.
- (4) Subsection (1) is subject to any other Act or to an instrument made under an Act.
- (5) A person who contravenes subsection (1) commits an offence.
- (6) It is a defence for a person charged with an offence under this section of disclosing information to prove that he or she reasonably believed—
- (a) that the disclosure was lawful, or
  - (b) that the information had already and lawfully been made available to the public.
- (7) A person guilty of an offence under this section is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both, or
  - (b) on summary conviction, to imprisonment for a term not exceeding twelve months or a fine not exceeding the statutory maximum or both.
- (8) A prosecution for an offence under this section may be instituted only with the consent of the Director of Public Prosecutions.
- (9) In relation to an offence under this section committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (increase in maximum term that may be imposed on summary conviction of offence triable either way), the reference in subsection (7)(b) to twelve months shall have effect as if it were a reference to six months.

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**Commencement Information**

**I21** S. 129 in force at 20.3.2012 by S.I. 2012/863, art. 2(1)(e)

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*Information-sharing involving local authorities etc*

**130 Information-sharing in relation to provision of overnight care etc**

- (1) This section applies where a local authority holds information falling within subsection (2) in relation to a person who is receiving or is likely to receive a relevant service.
- (2) The information referred to in subsection (1) is—
  - (a) information as to the fact of the provision or likely provision of the service;
  - (b) information about when the provision of the service begins or ends or is likely to do so;
  - (c) other prescribed information relating to the service provided and how it is funded (including the extent to which it is funded by the recipient).
- (3) In this section “relevant service means—
  - (a) a service consisting of overnight care in the individual's own home provided by or on behalf of a local authority;
  - (b) a residential care service provided by or on behalf of a local authority;
  - (c) a service consisting of overnight hospital accommodation.
- (4) In subsection (3)(c) “hospital accommodation” means—
  - (a) in relation to England, hospital accommodation within the meaning of the National Health Service Act 2006 which is provided by a Primary Care Trust, an NHS trust or an NHS foundation trust;
  - (b) in relation to Wales, hospital accommodation within the meaning of the National Health Service (Wales) Act 2006 which is provided by a Local Health Board or an NHS trust;
  - (c) in relation to Scotland, hospital accommodation within the meaning of the National Health Service (Scotland) Act 1978 which is provided by a Health Board or Special Health Board but excluding accommodation in an institution for providing dental treatment maintained in connection with a dental school.
- (5) The local authority may—
  - (a) itself use the information for purposes relating to the payment of a relevant benefit to the individual, or
  - (b) supply the information to a person specified in subsection (6) for those purposes.
- (6) The persons referred to in subsection (5) are—
  - (a) the Secretary of State;
  - (b) a person providing services to the Secretary of State;
  - (c) a local authority;
  - (d) a person authorised to exercise any function of a local authority relating to a relevant benefit;
  - (e) a person providing services relating to a relevant benefit to a local authority.
- (7) In this section “relevant benefit“ means—
  - (a) universal credit;
  - (b) housing benefit;
  - (c) council tax benefit;

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(d) any prescribed benefit.

(8) Regulations under subsection (7)(d) may not prescribe a benefit provision for which is within the legislative competence of the Scottish Parliament.

#### Commencement Information

**I22** S. 130 in force at 20.3.2012 for specified purposes by S.I. 2012/863, art. 2(1)(f)

**I23** S. 130 in force at 8.5.2012 in so far as not already in force by S.I. 2012/863, art. 2(3)(d)

### 131 Information-sharing in relation to welfare services etc

- (1) The Secretary of State, or a person providing services to the Secretary of State, may supply relevant information to a qualifying person for prescribed purposes relating to welfare services or council tax.
- (2) A qualifying person who holds relevant information for a prescribed purpose relating to welfare services may supply that information to—
  - (a) the Secretary of State, or
  - (b) a person providing services to the Secretary of State,for a prescribed purpose relating to a relevant social security benefit.
- (3) A qualifying person who holds relevant information for a prescribed purpose relating to welfare services, council tax or housing benefit may—
  - (a) use the information for another prescribed purpose relating to welfare services, council tax or housing benefit;
  - (b) supply it to another qualifying person for use in relation to the same or another prescribed purpose relating to welfare services, council tax or housing benefit.
- (4) Relevant information supplied under subsection (1) or (3) to a qualifying person may be supplied by that person to a person who provides qualifying welfare services for purposes connected with the provision of those services.
- (5) In subsection (4) services are qualifying welfare services if—
  - (a) a local authority, or
  - (b) a person who is a qualifying person by virtue of subsection (11) (g), contributes or will contribute to the expenditure incurred in their provision.
- (6) The Secretary of State may not exercise the power in subsection (3) to prescribe purposes for which information may be supplied by a qualifying person so as to prescribe an excepted purpose in relation to excepted information held by a Welsh body.
- (7) In subsection (6)—
  - (a) excepted information is information held by the Welsh body that—
    - (i) is not supplied by, or derived from information supplied to another person by, the Secretary of State or a person providing services to the Secretary of State or a person engaged in the administration of housing benefit, and
    - (ii) is held only for an excepted purpose;
  - (b) an excepted purpose is a purpose relating to a matter provision for which—

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- (i) is within the legislative competence of the National Assembly for Wales, or
  - (ii) is made by the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government.
- (8) The Secretary of State may not exercise the power in subsection (3) to prescribe purposes for which information may be supplied by a qualifying person so as to prescribe an excepted purpose in relation to excepted information held by a Scottish body.
- (9) In subsection (8)—
- (a) excepted information is information held by the Scottish body that—
    - (i) is not supplied by, or derived from information supplied to another person by, the Secretary of State or a person providing services to the Secretary of State or a person engaged in the administration of housing benefit, and
    - (ii) is held only for an excepted purpose;
  - (b) an excepted purpose is a purpose relating to a matter provision for which is within the legislative competence of the Scottish Parliament.
- (10) Subsections (1) to (4) do not apply in a case where the supply or use of information is authorised by section 130.
- (11) In this section “qualifying person“ means—
- (a) a local authority;
  - (b) a person authorised to exercise any function of such an authority relating to welfare services or council tax;
  - (c) a person providing services to a local authority relating to welfare services or council tax;
  - (d) an authority which administers housing benefit;
  - (e) a person authorised to exercise any function of such an authority relating to housing benefit;
  - (f) a person providing to such an authority services relating to housing benefit; or
  - (g) a person prescribed or of a description prescribed by the Secretary of State.
- (12) In this section—
- “council tax” includes any local tax to fund local authority expenditure;
  - “person engaged in the administration of housing benefit” means—
    - (a) an authority which administers housing benefit,
    - (b) a person authorised to exercise any function of such an authority relating to housing benefit, or
    - (c) a person providing to such an authority services relating to housing benefit;
  - “relevant information” means information relating to—
    - (a) any relevant social security benefit, or
    - (b) welfare services;
  - “relevant social security benefit” has the meaning given in section 121DA(7) of the Social Security Administration Act 1992;
  - “Scottish body” means—
    - (a) a local authority in Scotland,

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- (b) a person authorised to exercise any function of such an authority relating to welfare services,
- (c) a person providing to a local authority in Scotland services relating to welfare services, or
- (d) a person prescribed or of a description prescribed by the Secretary of State;

“welfare services” includes services which provide accommodation, support, assistance, advice or counselling to individuals with particular needs, and for these purposes “assistance” includes assistance by means of a grant or loan or the provision of goods or services;

“Welsh body” means—

- (a) a local authority in Wales,
- (b) a person authorised to exercise any function of such an authority relating to welfare services,
- (c) a person providing to a local authority in Wales services relating to welfare services, or
- (d) a person prescribed or of a description prescribed by the Secretary of State.

#### Commencement Information

**I24** S. 131 in force at 20.3.2012 for specified purposes by S.I. 2012/863, art. 2(1)(g)

**I25** S. 131 in force at 8.5.2012 in so far as not already in force by S.I. 2012/863, art. 2(3)(e)

### 132 Unlawful disclosure of information supplied under section 131

- (1) A person to whom subsection (2) applies is guilty of an offence if the person discloses without lawful authority any information—
  - (a) which comes to the person by virtue of section 131(1), (3) or (4), and
  - (b) which relates to a particular person.
- (2) This subsection applies to—
  - (a) a person mentioned in section 131(11) (a) to (c);
  - (b) a person who provides qualifying welfare services (within the meaning of section 131);
  - (c) a person who is or has been a director, member of the committee of management, manager, secretary or other similar officer of a person mentioned in paragraph (a) or (b);
  - (d) a person who is or has been an employee of a person mentioned in paragraph (a) or (b).
- (3) A person guilty of an offence under this section is liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both, or
  - (b) on summary conviction, to imprisonment for a term not exceeding twelve months or a fine not exceeding the statutory maximum or both.
- (4) It is not an offence under this section—

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- (a) to disclose information in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it;
  - (b) to disclose information which has previously been disclosed to the public with lawful authority.
- (5) It is a defence for a person (“D”) charged with an offence under this section to prove that at the time of the alleged offence—
- (a) D believed that D was making the disclosure in question with lawful authority and had no reasonable cause to believe otherwise, or
  - (b) D believed that the information in question had previously been disclosed to the public with lawful authority and had no reasonable cause to believe otherwise.
- (6) A disclosure is made with lawful authority if it is so made for the purposes of section 123 of the Social Security Administration Act 1992.
- (7) This section does not affect that section.
- (8) Regulations under section 131(11) (g) may include provision for applying the provisions of this section to—
- (a) a person who is a qualifying person within the meaning of section 131 by virtue of the regulations, or
  - (b) a person associated with such a qualifying person by reason of the person's office or employment or otherwise.
- (9) In relation to an offence under this section committed in England and Wales before the commencement of section 154(1) of the Criminal Justice Act 2003 (increase in maximum term that may be imposed on summary conviction of offence triable either way) the reference in subsection (3) (b) to twelve months must be taken to be a reference to six months.

**Commencement Information**

**I26** S. 132(1)-(7)(9) in force at 8.5.2012 by S.I. 2012/863, art. 2(3)(f)

**I27** S. 132(8) in force at 20.3.2012 by S.I. 2012/863, art. 2(1)(h)

**133 Sections 130 to 132: supplementary**

(1 In sections 130 and 131—

“benefit” includes any allowance, payment, credit or loan;

“local authority” means—

- (a) a county or district council in England;
- (b) an eligible parish council (within the meaning of Chapter 1 of Part 1 of the Localism Act 2011);
- (c) a London borough council;
- (d) the Common Council of the City of London in its capacity as a local authority;
- (e) the Council of the Isles of Scilly;
- (f) a county or county borough council in Wales;

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- (g) a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;  
“prescribed” means prescribed in regulations made by the Secretary of State.
- (2) Any power to make regulations under sections 130 and 131 includes power—
- (a) to make different provision for different purposes, cases and areas;
  - (b) to make such incidental, supplemental, consequential, transitional or saving provision as the Secretary of State thinks necessary or expedient.
- (3) Regulations under sections 130 and 131 must be made by statutory instrument.
- (4) A statutory instrument containing regulations under section 130 or 131 is subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Until the coming into force of provision for identifying eligible parish councils within the meaning of Chapter 1 of Part 1 of the Localism Act 2011, the reference in subsection (1) to an eligible parish council within the meaning of that Chapter is to be read as a reference to an eligible parish council within the meaning of Part 1 of the Local Government Act 2000.
- (6) The following are repealed—
- (a) sections 42 and 43 of the Welfare Reform Act 2007;
  - (b) section 69(2)(a) of that Act.

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**Commencement Information**

**I28** S. 133(1)-(4) in force at 20.3.2012 by S.I. 2012/863, art. 2(1)(i)

*Information-sharing: miscellaneous*

**134 Information-sharing for social security or employment purposes etc**

- (1) Section 72 of the Welfare Reform and Pensions Act 1999 (supply of information for certain purposes) is amended as follows.
- (2) In subsection (2)(b), after “designated“ there is inserted “(specifically or by description)”.
- (3) The following are repealed—
  - (a) in subsection (6), the words “(subject to subsection (6A))”;
  - (b) subsection (6A).
- (4) In Schedule 1 to the Education and Skills Act 2008, paragraph 74(3) and (4) is repealed.

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## PART 6

### MISCELLANEOUS

#### *Tell Us Once*

#### 135 Functions of registration service

In the Registration Service Act 1953, after section 19 there is inserted—

**“19A Functions relating to transmission of information to Secretary of State**

- (1) The functions of a registrar of births and deaths, a superintendent registrar and the Registrar General include the power to—
  - (a) transmit information contained in a declaration made under section 9(1) of the Births and Deaths Registration Act 1953 or entered in a register of births to the Secretary of State, and
  - (b) verify such information for the Secretary of State, for the purposes of the service in subsection (2).
- (2) That service is a service operated by the Secretary of State by which—
  - (a) individuals may transmit information about births to the Secretary of State, and
  - (b) that information may be transmitted to other persons by the Secretary of State.
- (3) References in subsections (1) and (2) to the Secretary of State include persons providing services to the Secretary of State for the purpose of the service referred in subsection (2).
- (4) This section does not authorise any disclosure which is unlawful—
  - (a) by virtue of any enactment, or
  - (b) by reason of the law relating to confidentiality or privacy.”

#### *Child support maintenance*

VALID FROM 25/11/2013

#### 136 Supporting maintenance agreements

- (1) In section 9 of the Child Support Act 1991 (maintenance agreements), after subsection (2) there is inserted—

“(2A) The [<sup>F3</sup>Secretary of State] may, with a view to reducing the need for applications under sections 4 and 7—

- (a) take such steps as [<sup>F4</sup>the Secretary of State] considers appropriate to encourage the making and keeping of maintenance agreements, and



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- (b) in particular, before accepting an application under those sections, invite the applicant to consider with the [F5Secretary of State] whether it is possible to make such an agreement.”
- (2) In Schedule 5 to the Child Maintenance and Other Payments Act 2008 (maintenance calculations: transfer of cases to new rules), in paragraph 3, after sub-paragraph (2) there is inserted—
- “(3) The [F6Secretary of State] may before accepting an application required by provision under sub-paragraph (2)(b) invite the applicant to consider with the [F6Secretary of State] whether it is possible to make a maintenance agreement (within the meaning of section 9 of the Child Support Act 1991).”

#### Textual Amendments

- F3** Words in s. 136(1) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 105(2)(a)**
- F4** Words in s. 136(1) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 105(2)(b)**
- F5** Words in s. 136(1) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 105(2)(c)**
- F6** Words in s. 136(2) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 105(3)**

VALID FROM 30/06/2014

### 137 Collection of child support maintenance

- (1) The Child Support Act 1991 is amended as follows.
- (2) In section 4 (child support maintenance)—
- (a) in subsection (2), the words from “or“ to “made” are repealed;
- (b) after subsection (2) there is inserted—
- “(2A) The [F7Secretary of State] may only make arrangements under subsection (2)(a) if—
- (a) the non-resident parent agrees to the arrangements, or
- (b) the [F7Secretary of State] is satisfied that without the arrangements child support maintenance is unlikely to be paid in accordance with the calculation.”
- (3) In section 7 (right of child in Scotland to apply for calculation)—
- (a) in subsection (3), for the words from “person with care” to “made or” there is substituted “person with care or”;
- (b) after subsection (3) there is inserted—

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“(3A) The [<sup>F8</sup>Secretary of State] may only make arrangements under subsection (3)(a) if—

- (a) the non-resident parent agrees to the arrangements, or
- (b) the [<sup>F8</sup>Secretary of State] is satisfied that without the arrangements child support maintenance is unlikely to be paid in accordance with the calculation.”

(4) In section 29 (collection of child support maintenance), in subsection (1), after “may” there is inserted “ (subject to section 4(2A) and 7(3A)) ”.

#### Textual Amendments

- F7** Words in s. 137(2)(b) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), [Sch. para. 106\(2\)](#)
- F8** Words in s. 137(3)(b) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), [Sch. para. 106\(3\)](#)

PROSPECTIVE

### 138 Indicative maintenance calculations

After section 9 of the Child Support Act 1991 there is inserted—

#### “9A Maintenance agreements: indicative calculations

- (1) A person with care or non-resident parent in relation to any qualifying child or qualifying children may apply to the [<sup>F9</sup>Secretary of State] for an indicative calculation with respect to that child or any of those children.
- (2) A qualifying child who has attained the age of 12 years and is habitually resident in Scotland may apply to the [<sup>F9</sup>Secretary of State] for an indicative calculation with respect to himself or herself.
- (3) An indicative calculation is a calculation of the amount of child support maintenance which the [<sup>F9</sup>Secretary of State] considers would in accordance with section 11 be fixed by a maintenance calculation if such a calculation were made with respect to the child or children in question.
- (4) An indicative calculation does not create any liability on any person to pay child support maintenance.
- (5) The [<sup>F10</sup>Secretary of State] may limit the number of applications [<sup>F10</sup>the Secretary of State] will accept under this section in any particular case in such manner as [<sup>F10</sup>the Secretary of State] thinks fit.
- (6) Where a person who is alleged to be the parent of a child with respect to whom an application for an indicative calculation has been made denies being one of the child's parents, the [<sup>F11</sup>Secretary of State] shall not make the indicative

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calculation on the assumption that the person is one of the child's parents unless the case falls within paragraph (b) of Case A3 in section 26(2).”

#### Textual Amendments

- F9** Words in s. 138 substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 107(2)**
- F10** Words in s. 138 substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 107(3)**
- F11** Words in s. 138 substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 107(4)**

VALID FROM 04/02/2014

#### 139 Recovery of child support maintenance by deduction from benefit

In section 43 of the Child Support Act 1991 (as substituted by the Child Support, Pensions and Social Security Act 2000), for subsections (1) and (2) there is substituted—

- “(1) The power of the Secretary of State to make regulations under section 5 of the Social Security Administration Act 1992 by virtue of subsection (1) (p) of that section may be exercised with a view to securing the making of payments in respect of child support maintenance by a non-resident parent.
- (2) The reference in subsection (1) to the making of payments in respect of child support maintenance includes the recovery of—
- (a) arrears of child support maintenance, and
  - (b) fees payable under section 6 of the Child Maintenance and Other Payments Act 2008.”

VALID FROM 25/11/2013

#### 140 Fees

In section 6 of the Child Maintenance and Other Payments Act 2008 (fees), in subsection (2)—

- (a) in paragraph (d), at the end there is inserted “;”; “(including provision for the apportionment of fees and the matters to be taken into account in determining an apportionment)”
- (b) in paragraph (g), “waiver” is repealed;
- (c) after paragraph (g) there is inserted—
  - “(h) about waiver of fees (including the matters to be taken into account in determining a waiver).”

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VALID FROM 25/11/2013

#### 141 Review of fees regulations

In section 6 of the Child Maintenance and Other Payments Act 2008 (fees), after subsection (3) there is inserted—

“(3A) The Secretary of State must review the effect of the first regulations made under subsection (1).

(3B) The review must take place before the end of the period of 30 months beginning with the day on which those regulations come into force.

(3C) After the review, the Secretary of State must make and publish a report containing—

- (a) the conclusions of the review, and
- (b) a statement as to what the Secretary of State proposes to do in view of those conclusions.

(3D) The report must be laid before Parliament by the Secretary of State.”

#### 142 Exclusion from individual voluntary arrangements

(1) In the Insolvency Act 1986, in section 382 (meaning of “bankruptcy debt” etc), at the end there is inserted—

“(5) Liability under the Child Support Act 1991 to pay child support maintenance to any person is not a debt or liability for the purposes of Part 8.”

(2) In the heading to that section, after “bankruptcy debt” there is substituted “, “liability””.

#### *Reports on decision-making*

#### 143 Standards of decision-making

Section 81 of the Social Security Act 1998 (reports by Secretary of State and Child Maintenance and Enforcement Commission) is repealed.

#### Commencement Information

**I29** S. 143 in force at 8.5.2012 by S.I. 2012/863, art. 2(3)(g)

#### *Employment and training*

#### 144 Use of jobcentres by sex industry

In the Employment and Training Act 1973, after section 2 (duty of Secretary of State to make arrangements for assisting persons to find employment etc) there is inserted—

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### “2A Restriction on section 2 arrangements: sex industry

- (1) Arrangements made by the Secretary of State under section 2 may not include arrangements in respect of employment for sexual purposes.
- (2) For the purposes of this section employment is for sexual purposes if—
  - (a) it involves the employee engaging in an activity, and
  - (b) the employee's activity, or the way in which it is performed, may reasonably be assumed to be intended solely or principally to stimulate one or more other persons sexually (by whatever means).
- (3) The Secretary of State may by order specify exceptions to subsection (1).
- (4) A statutory instrument containing an order under subsection (3) is subject to annulment in pursuance of a resolution of either House of Parliament.”

#### Commencement Information

**I30** S. 144 in force at 8.5.2012 by S.I. 2012/863, art. 2(3)(h)

### *Child poverty*

#### **145 Social Mobility and Child Poverty Commission**

Schedule 13 amends the Child Poverty Act 2010 for the purpose of establishing the Social Mobility and Child Poverty Commission.

#### **146 UK child poverty strategies**

- (1) Section 9 of the Child Poverty Act 2010 (UK strategies) is amended as follows.
- (2) In subsection (7)(a)(i)—
  - (a) for “progress” there is substituted “ measures ”;
  - (b) for “needs to be made” there is substituted “ need to be taken ”.
- (3) In subsection (7)(a)(ii)—
  - (a) for “progress” there is substituted “ measures ”;
  - (b) for “intends to make” there is substituted “ proposes to take ”;
  - (c) for “in achieving” there is substituted “ to achieve ”.
- (4) In subsection (7)(b)—
  - (a) for “progress” there is substituted “ measures (other than those described under paragraph (a)) ”;
  - (b) for “intends to make” there is substituted “ proposes to take ”;
  - (c) for “in achieving” there is substituted “ to achieve ”;
  - (d) the words from “otherwise than” to the end are repealed.
- (5) In subsection (8), for paragraphs (b) and (c) there is substituted “and

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- “(b) give an account (in such manner as the Secretary of State considers appropriate) of the effect of those measures, so far as relating to the purposes mentioned in subsection (2).”

**Commencement Information**

**I31** S. 146 in force at 8.5.2012 by S.I. 2012/863, art. 2(3)(i)

**PART 7**

FINAL

**147 Repeals**

Schedule 14 contains consequential repeals.

**Commencement Information**

**I32** S. 147 in force for specified purposes; s. 147 not in force at Royal Assent see s. 150(1)(f); s. 147 in force for specified purposes at 8.5.2012 see s. 150(2)(b)(f)(k)

**148 Financial provision**

There shall be paid out of money provided by Parliament—

- (a) sums paid by the Secretary of State by way of universal credit or personal independence payment;
- (b) any other expenditure incurred in consequence of this Act by a Minister of the Crown or the Commissioners for Her Majesty's Revenue and Customs;
- (c) any increase attributable to this Act in the sums payable under any other Act out of money so provided.

**149 Extent**

- (1) This Act extends to England and Wales and Scotland only, subject as follows.
- (2) The following provisions extend to England and Wales, Scotland and Northern Ireland—
  - (a) section 32 (power to make consequential and supplementary provision: universal credit);
  - (b) section 33 (abolition of benefits);
  - (c) section 76 (calculation of working tax credit);
  - (d) section 92 (power to make consequential and supplementary provision: personal independence payment);
  - (e) section 126(1) to (13) (tax credits: transfer of functions etc);
  - (f) section 127(1) to (9) (information-sharing between Secretary of State and HMRC);
  - (g) this Part, excluding Schedule 14 (repeals).

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- (3) Sections 128 and 129 extend to England and Wales only.
- (4) Any amendment or repeal made by this Act has the same extent as the enactment to which it relates.

## 150 Commencement

- (1) The following provisions of this Act come into force on the day on which it is passed—
  - (a) section 76 (calculation of working tax credit);
  - (b) section 103 and Schedule 12 (supersession of decisions of former appellate bodies) (but see section 103(2));
  - (c) section 108 (application of Limitation Act 1980) (but see section 108(4));
  - (d) section 109 (recovery of fines etc by deductions from employment and support allowance) (but see section 109(3));
  - (e) section 126 (tax credits: transfer of functions etc);
  - (f) this Part, excluding Schedule 14 (repeals).
- (2) The following provisions of this Act come into force at the end of the period of two months beginning with the day on which it is passed—
  - (a) section 50 (dual entitlement to employment and support allowance and jobseeker's allowance);
  - (b) section 60 and Part 6 of Schedule 14 (claimants dependent on drugs etc);
  - (c) sections 71 and 72 (social fund: purposes of discretionary payments and determination of amount or value of budgeting loan);
  - (d) section 107 (recovery of child benefit and guardian's allowance);
  - (e) section 111 (time limit for legal proceedings);
  - (f) section 127 and Part 13 of Schedule 14 (information-sharing between Secretary of State and HMRC);
  - (g) section 134 (information-sharing for social security or employment purposes etc);
  - (h) section 135 (functions of registration service);
  - (i) section 142 (exclusion of child support maintenance from individual voluntary arrangements);
  - (j) section 145 and Schedule 13 (Social Mobility and Child Poverty Commission);
  - (k) Part 2 of Schedule 14 (entitlement to jobseeker's allowance without seeking employment).
- (3) The remaining provisions of this Act come into force on such day as the Secretary of State may by order made by statutory instrument appoint.
- (4) An order under subsection (3) may—
  - (a) appoint different days for different purposes;
  - (b) appoint different days for different areas in relation to—
    - (i) any provision of Part 1 (universal credit) or of Part 1 of Schedule 14;
    - (ii) section 61 or 62 (entitlement to work: jobseeker's allowance and employment and support allowance);
    - (iii) any provision of Part 4 (personal independence payment) or of Part 9 of Schedule 14;

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- (iv) section 102 (consideration of revision before appeal);
- (c) make such transitory or transitional provision, or savings, as the Secretary of State considers necessary or expedient.

## 151 Short title

This Act may be cited as the Welfare Reform Act 2012.



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