

WELFARE REFORM ACT 2012

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3: Other benefit changes

Section 69: Housing benefit: determination of appropriate maximum

341. *Section 69* amends section 130A of the SSCBA 1992. Section 130A provides for the appropriate maximum housing benefit (AMHB) to be determined in accordance with regulations, including by reference to rent officer determinations. It is necessary to know the AMHB in a person's case in order to determine whether they are entitled to housing benefit, and how much they are entitled to.
342. The amendments made by section 69 generalise section 130A to reflect the Secretary of State's intention to exercise the powers in that section to provide for AMHB to be determined by methods other than by reference to rent officer determinations.
343. The Housing Benefit Regulations provide for AMHB to be determined by reference to a claimant's eligible rent. Calculating a claimant's eligible rent can involve treating the claimant's liability to pay rent as something other than it actually is. The amendments made by section 69 generalise section 130A(5) and (6) to reflect the intention that regulations will provide for a claimant's liability to pay rent to be treated as an amount other than the actual amount of the liability (whether that deemed amount is determined by reference to a rent officer determination or otherwise).
344. Using these powers the Secretary of State will bring forward regulations that will:
- set out that eligible rent may be determined by reference to either rent officer determinations or the rate of CPI. Currently local housing allowance (LHA) determinations are made by rent officers. The amendments made by section 69 will ensure the Secretary of State has the power to set LHA rates from April 2013, by reference to the lower of either the CPI or the bottom 30th percentile of private sector rents.
 - introduce size criteria into the calculation of housing benefit for working age tenants in the social rented sector. The Secretary of State will prescribe the amount by which the claimant's actual rent liability is to be reduced to reflect the additional bedrooms within the property; the claimant's eligible rent will be restricted if their dwelling is larger than they need. A percentage reduction will be made based on the numbers of extra bedrooms, which will be prescribed in secondary legislation.
345. The first regulations under section 130A(5) and (6) will be subject to the affirmative resolution procedure.