

# WELFARE REFORM ACT 2012

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 5: Social security: General**

##### ***Section 96: Benefit cap***

470. *Section 96* provides for the amount of welfare benefits a claimant or a couple receives to be capped by reference to the average earnings of working households in Great Britain.
471. *Subsections (1) to (3)* allow for regulations to apply a cap to the total amount of welfare benefits an individual or couple receives. Where total entitlement is higher than the level of the cap, entitlement to benefits may be reduced by up to the excess.
472. *Subsection (4)* illustrates the way in which the power can be used. In particular, it enables regulations to specify how a person's total entitlement to welfare benefits is to be calculated and how the amount of any reduction should be determined. Regulations may prescribe the benefits from which a reduction can be made, make provisions for the period over which it will be determined, provide for circumstances in which the cap will not apply and make provision for its relationship with any other reductions of benefit.
473. The level of the cap will be set in regulations under *subsection (5)*, and must (as a result of *subsection (6)*) be determined by reference to the estimated average earnings of working households. Under *subsections (7) and (8)*, the Secretary of State may determine how best to estimate average weekly earnings in Great Britain after tax and National Insurance Contributions.
474. *Subsection (9)* provides that the application of the cap may not reduce any welfare benefit which falls within the legislative competence of the Scottish Parliament or the National Assembly for Wales. The same applies to any welfare benefit which is provided for by the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government.
475. *Subsection (10)* allows regulations to prescribe which benefits, allowances, payments or credits may be considered welfare benefits for the purposes of calculating and applying the cap, and defines other terms for the purposes of this section. *Subsection (11)* ensures that this list of welfare benefits may not include state pension credit or state retirement pensions.