

WELFARE REFORM ACT 2012

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5: Social security: General

Section 126: Tax credits: transfer of functions etc

648. The Commissioners for Revenue and Customs Act 2005 amended the Ministers of the Crown Act 1975 such that certain functions of the HMRC Commissioners could not be transferred by an Order in Council under the 1975 Act, including those relating to the payment and management of working tax credit and child tax credit. *Section 126* removes this statutory bar in relation to tax credits. Further, it allows for an Order in Council to be made, transferring any tax credit function of the Treasury or the HMRC Commissioners to the Secretary of State, or directing that any such function shall be exercisable concurrently with the Secretary of State, or cease to be so exercisable.
649. An Order under this section may also make provision in connection with such a transfer or direction, and other provision including provision relating to the use or supply of information, combining any aspect of the payment and management of tax credits with any aspect of the administration of social security and applying social security legislation in relation to tax credits. *Subsection (5)(a)* allows new functions to be conferred on, or functions to be removed from, the Secretary of State, the Treasury, the HMRC Commissioners, a Northern Ireland Department or any other person. Under *subsection (5)(b)*, the Order may authorise the Secretary of State and the HMRC Commissioners to arrange for the HMRC Commissioners to provide services to the Secretary of State in connection with tax credits.
650. *Subsection (6)* provides that provision under *subsection (3)* may extend an offence provided for under primary or secondary legislation or extend any conduct in respect of which a civil penalty may be imposed, but may not increase the scope of punishment for which a person may be liable or the maximum amount of a penalty.
651. Any Order may also make such consequential, supplementary, incidental or transitional provision as Her Majesty considers appropriate, such as transferring property, rights or liabilities. *Subsection (9)* enables the Order to amend, repeal or revoke primary or secondary legislation.
652. *Subsection (10)* provides that a statutory instrument containing an Order under this section is subject to the negative resolution procedure.
653. *Subsection (14)* amends the Ministers of the Crown Act 1975 to remove the statutory bar referred to above.