

WELFARE REFORM ACT 2012

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 6: Miscellaneous

Section 135: Functions of registration service

686. *Section 135* inserts *section 19A*, “Functions relating to transmission of information to Secretary of State” into the Registration Service Act 1953.
687. This section creates a function allowing the Registrar General, superintendent registrars and registrars of births and deaths to transmit information entered in a register of births or contained in a birth declaration to the Secretary of State, and to verify such information for the Secretary of State, for certain purposes.
688. *Subsection (1)* confers a new function on registrars of births and deaths, superintendent registrars and the Registrar General, that will enable them to transmit and verify information for the purposes of the service set out in *subsection (2)*.
689. *Subsection (2)* specifies that the service referred to in subsection (1) is a service whereby individuals can pass birth information (which includes the fact that a birth declaration has been made or a birth has been registered and other information about that birth) to the Secretary of State, and the Secretary of State can pass that information on to other persons. The persons that the Secretary of State will pass the information to may include other government departments and Local Authorities. The service referred to in subsection (2) is also known as ‘Tell Us Once’.
690. *Subsection (3)* makes it clear that references to the Secretary of State include persons providing services to the Secretary of State for the purpose of the service referred to in subsection (2). It therefore includes any organisation providing that service on behalf of the Secretary of State.
691. *Subsection (4)* provides that nothing in the section authorises any disclosure which is otherwise unlawful.
692. The Tell Us Once programme provides a means by which the citizen can inform Government once about a birth or a death. It is a voluntary service, running alongside as an alternative to conventional notification channels. Tell Us Once shares the data, with the person’s consent, with other parts of the DWP and other organisations such as HMRC, Local Authorities’ Family Information Services and Library Services.
693. The policy intention behind this section is that the individual will inform Government (through the Tell Us Once service) once of a birth. Tell Us Once will, with a person’s consent, retrieve birth data from the General Register Office to share with other parts of DWP and other organisations. This will mean a person does not have to provide the same information to multiple organisations themselves. Drawing the data from the General Register Office enables those services to accept the birth registration and birth declaration information as verified for the purpose of assessing changes to entitlement to benefits and services and also removes the reliance on paper certificates.

694. The data that is transmitted would include the date of birth, full name and sex of the child and the registration district of the birth. It may include additional related data such as the full name of the mother of the child, and her usual address. Only data that is entered on the birth register or in a birth declaration will be transmitted.

Section 136: Supporting maintenance agreements

695. Section 9 of the Child Support Act 1991 makes clear that parents may make arrangements for child maintenance outside the statutory scheme, but that if they have done so, none of the parties to that agreement are then prevented from applying to the statutory scheme. The Government's intention is to ask parents whether they could reach their own collaborative arrangements and to support them in doing so.
696. *Section 136(1)* inserts a new *subsection (2A)* into section 9 which allows the Child Maintenance and Enforcement Commission to take appropriate steps to encourage the making and keeping of family-based maintenance agreements. This includes the Commission inviting an applicant to consider with them whether it is possible to make such an agreement, before the Commission accepts an application. This will apply to applications from persons with care, non-resident parents and, in Scotland, a qualifying child aged over 12.
697. *Subsection (2)* amends paragraph 3 of Schedule 5 to the Child Maintenance and Other Payments Act 2008 which deals with the transfer of cases in the existing child support schemes to the new scheme, which is due to start for new customers in 2012. Where an individual decides that they wish to apply to the new scheme the amendment will ensure that they will also be invited to take consider along with the Commission whether it is possible to make a family-based arrangement first.

Section 137: Collection of child support maintenance

698. Section 4 of the Child Support Act 1991 provides that a person with care or a non-resident parent may apply for a maintenance calculation under that Act. Section 4(2) provides that once a calculation has been made, it is open to either the person with care or the non-resident parent to ask the Child Maintenance and Enforcement Commission to arrange for the collection of the maintenance payable.
699. *Section 137(2)* repeals some of the wording in section 4(2), and inserts a new *subsection (2A)*. Taken together, the changes mean that if a person with care asks the Commission to collect the maintenance payable, the Commission will only do so if the non-resident parent agrees, or where it is satisfied that the non-resident parent is unlikely to make payments.
700. *Section 137(3)* makes corresponding amendments to section 7 of the Child Support Act 1991 which relates to an application for a maintenance calculation made by a child in Scotland.

Section 138: Indicative maintenance calculations

701. To support the making of maintenance arrangements outside the statutory scheme, the Government will provide a service which will give parents an indication of the amount of maintenance which would be payable under the statutory child scheme if an application were to be made. *Section 138* therefore inserts new *section 9A* into the Child Support Act 1991 making provision for such a service. The provision will enable an application for an indicative maintenance calculation to be made to the Child Maintenance and Enforcement Commission by a person with care, non-resident parent or a qualifying child aged 12 or over in Scotland.
702. An indicative calculation will be made on exactly the same basis as a maintenance calculation would be were an application made to the statutory scheme, but will not create any liability to pay maintenance. Where parentage of the child or children

is denied, *section 9A(6)* will prevent the Child Maintenance and Enforcement Commission from providing an indicative maintenance calculation, unless the person who denies parentage has been shown, through a DNA test, to be the parent of that child or children. Instead the applicant will be advised to make a full application to the statutory scheme.

Section 139: Recovery of child support maintenance by deduction from benefit

703. Currently section 43 of the Child Support Act 1991 makes provision for the recovery of child support maintenance by deduction from benefit. Subsection (2) of that section provides that the power of the Secretary of State to make regulations under section 5 of the Social Security Act 1992 includes power to secure payment of child support maintenance by a deduction from benefit.
704. *Section 139* substitutes subsections (1) and (2) of section 43 of the 1991 Act with two new subsections. The new subsections continue to allow for the recovery of child support maintenance by deduction from benefit (including the recovery of arrears). They also allow for the recovery by deduction from benefit of fees payable under section 6 of the [Child Maintenance and Other Payments Act 2008 \(c. 6\)](#) (“the 2008 Act”) by the non-resident parent.

Section 140: Fees

705. *Section 140* amends section 6 of the 2008 Act to further illustrate and clarify the scope of the regulation-making power within subsection (1). It clarifies that the power under subsection (1) can be used to make provision for the apportionment of fees and waiver (and matters to be taken in to account in determining any such apportionment and waiver).

Section 141: Review of fees regulations

706. *Section 141* amends section 6 of the 2008 Act by inserting new paragraphs (3A) to (3D). These paragraphs require the Secretary of State to review the effect of the first regulations made under section 6(1) of the 2008 Act (regulations about the charging of fees by the Child Maintenance and Enforcement Commission in connection with its functions). The review must take place within 30 months from the date that those regulations come in to force. They also require the Secretary of State to make and publish a report after the review. The report should contain the conclusions of the review and a statement as to what the Secretary of State proposes to do in view of those conclusions. The Secretary of State must lay the report before Parliament.

Section 142: Exclusion from individual voluntary arrangements

707. An individual voluntary arrangement (IVA) is a legally binding arrangement supervised by a Licensed Insolvency Practitioner, the purpose of which is to enable an individual, sole trader or partner to reach a compromise with his creditors and avoid the consequences of bankruptcy.
708. *Section 142(1)* amends section 382 of the Insolvency Act 1986 (“bankruptcy debt etc.”), to make it clear that a liability under the Child Support Act 1991 to pay child support maintenance is not a debt or liability which can be included in an IVA. Thus a non-resident parent who owes arrears of child support maintenance will not be able to reduce his liability by means of an IVA.
709. *Subsection (2)* amends the heading to section 382 of the Insolvency act 1986 to more accurately reflect the content of the section after the amendment in *subsection (1)*.
710. This measure will not apply in Scotland, as the Insolvency Act 1986 applies only to England and Wales.

Section 143: Standards of decision-making

711. *Section 143* repeals section 81 of the SSA 1998 which places a duty on the Secretary of State and the Child Maintenance and Enforcement Commission to report on the standards achieved in the making of decisions which carry appeal rights.

Section 144: Use of jobcentres by sex industry

712. *Section 144* inserts a new section, *section 2A*, into the Employment and Training Act 1973, removing the obligation for the Secretary of State, via Jobcentre Plus, to advertise certain types of vacancies or opportunities in the sex industry.
713. Under the Employment and Training Act 1973 the Secretary of State is obliged to help employers to fill vacancies and jobseekers to find jobs. *Subsection (1)* qualifies this obligation and states that the Secretary of State must not help employers to fill vacancies and jobseekers to find jobs in respect of employment for sexual purposes.
714. *Subsection (2)* sets out when a job would be considered as employment for sexual purposes. This includes vacancies which involve performing activities to sexually stimulate others, but would not cover, for example, jobs involved in the retail or manufacture of sexual products.
715. *Subsection (3)* enables the Secretary of State to make an order to provide exceptions to *subsection (1)*, as necessary.
716. *Subsection (4)* states that regulations made under *subsection (3)* will be subject to the negative resolution procedure.

Section 145: Social Mobility and Child Poverty Commission

717. *Section 145* introduces Schedule 13 which amends the Child Poverty Act 2010.

Schedule 13: Social Mobility and Child Poverty Commission

718. As originally enacted, the Child Poverty Act 2010 made provision for the establishment of a Child Poverty Commission. *Schedule 13* amends the Act so as to establish instead a Social Mobility and Child Poverty Commission.
719. New *section 8* provides for a ‘Social Mobility and Child Poverty Commission’ to be established. It also makes provision for the abolition of the Commission.
720. New *section 8A* requires the Commission to provide advice to a Minister of the Crown upon request, concerning how to measure socio-economic disadvantage, social mobility and child poverty. Any such advice must be published.
721. *Subsections (1), (2) and (3)* of new *section 8B* require the Commission to publish annual reports assessing the progress made towards improving social mobility and reducing child poverty in the United Kingdom. The reports must also describe the measures taken by the devolved administrations in Scotland, Wales and Northern Ireland in accordance with their devolved strategies. (In the case of Northern Ireland, this only applies after an appointed day (for which, see paragraph 11(4) of Schedule 13)). The first report has to be published within a year of the provision coming into force. Subsequent reports are required before each anniversary of the entry into force of section 8B.
722. *Subsection (4)* of new section 8B provides flexibility over the form that the annual report takes. For example, it would allow for one report covering social mobility and child poverty or two separate reports, one on social mobility and one on child poverty.
723. *Subsection (5)* allows a Minister of the Crown to delay the publication of any annual report by up to 9 months, at the request of the Commission. This is to allow for a situation where, for example, a delay to some relevant government statistics would

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prevent the Commission's report from being as informative as it should be, if it were to be published in accordance with the deadline set out in section 8B(1).

724. New *section 8C* allows a Minister of the Crown to ask the Commission to undertake other activities relating to the goals of improving social mobility in the UK and reducing child poverty in the UK.
725. New *Schedule 1* includes provisions on the structure and membership of the Commission, including terms of office, staff and facilities.
726. *Paragraph 1* enables a Minister of the Crown to appoint a Chair, Deputy Chair and such other members as he may determine. In addition, it requires Scotland, Wales and Northern Ireland each to appoint a member of the Commission. In the case of Northern Ireland, this applies only after the appointed day.
727. *Paragraphs 2 to 7* set out the terms of office for the Chair, Deputy Chair and members, including the length of term, provisions for resignation of Chair, Deputy Chair or members, provisions for the removal of members and provisions for re-appointment.
728. *Paragraph 8* provides that a Minister of the Crown may provide the Commission with the staff and facilities necessary for the Commission to carry out its role. It also enables a Minister of the Crown, if requested by the Commission and if the Minister so chooses, to carry out or commission research. Such research has to be for the purpose of carrying out the functions of the Commission.
729. *Paragraph 9* enables a Minister of the Crown to provide remuneration to Commission members as appropriate. This is to ensure that Commission members' expenses can be covered and that there is provision for particular members to be paid if they are asked to carry out extensive analysis or research on behalf of the entire Commission.
730. *Paragraph 10* gives the Commission the necessary power to undertake activities that it needs to do in order to carry out its functions.
731. *Paragraph 11* confirms that the Commission is not a servant or agent of the Crown, and that it does not enjoy Crown status, privilege or immunity.
732. *Paragraph 12* gives the Commission the power to establish sub-committees as it sees fit.
733. *Paragraph 13* gives the Commission the power to regulate its own procedures and that of any sub-committee.
734. *Paragraph 14* provides that any vacancy in the Commission or sub-committee or any defect in the appointment of a member will not affect the validity of proceedings.
735. *Paragraph 15* provides that the functions of the Commission may be undertaken by a member or a sub-committee.
736. *Part 2* sets out further amendments to the Child Poverty Act 2010.
737. *Paragraph 5* repeals section 6(6)(b). This means that the consent of Commission is not required for the Secretary of State to change the definition of persistent poverty to be used for the persistent poverty target in section 6 (and as a consequence the target itself).
738. *Paragraph 6* repeals section 10(1) to (3). This means that the Secretary of State will not have to request advice from the Commission and have regard to that advice when developing the UK Child Poverty Strategy.
739. *Paragraph 7* repeals section 13(1) to (2). This means that Scottish Ministers and the relevant Northern Ireland Departments will not have to request advice from the Commission and have regard to that advice when developing their devolved child poverty strategies.

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740. *Paragraph 8* repeals section 14. This removes the requirement upon the Secretary of State to provide an annual report for Parliament detailing progress made towards the child poverty targets, progress made towards implementing the child poverty strategy, and the measures taken by Ministers in the devolved administrations, in accordance with their respective child poverty strategies.
741. *Paragraph 9* amends section 15 so that the Secretary of State is required, after the end of 2020 (the “target year”), and after consultation with the devolved administrations, to produce a statement as to whether the targets have been met.
742. *Paragraph 10* reflects the fact that the Commission will not have to provide advice on the UK, Scotland and Northern Ireland Child Poverty Strategies and provides that the Commission must take into account economic and fiscal circumstances when considering advice given to a Minister of the Crown under section 8A.
743. *Paragraph 11* contains some consequential amendments to definitions in the Child Poverty Act 2010. *Sub-paragraph (4)* defines the “appointed day” for Northern Ireland as a day appointed by a Minister of the Crown with the consent of the Northern Ireland Assembly.
744. *Paragraph 13* amends Schedule 2 of the Child Poverty Act 2010 to reflect the fact that the Secretary of State no longer has to produce a report after the target year, but has to provide a statement.
745. *Part 3* of new *Schedule 1* contains consequential amendments to other legislation.

Section 146: UK child poverty strategies

746. *Section 146* amends section 9 of the Child Poverty Act 2010 to clarify the existing position that the requirements for a UK strategy can be met with a description of measures in narrative or policy terms.