

WELFARE REFORM AND PENSIONS ACT 1999

EXPLANATORY NOTES

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Commentary

Part III

Chapter III: Other Welfare Provisions

Section 80: Supply of information for child support purposes

This provision allows the Inland Revenue, on a discretionary basis, to supply tax information it holds in respect of self-employed non-resident parents to the Child Support Agency (CSA). This is intended to enable the CSA to build up a financial picture of non-resident parents whose earnings either are not known or need to be verified.

The CSA is required by law to assess maintenance liability when a valid application is received. To make this assessment, it needs details of the non-resident parent's earnings. This information is sometimes difficult to obtain directly from the non-resident parent, who may deliberately withhold information with a view to delaying a demand for maintenance or may simply be unable to locate the relevant documentation. Whilst this is less significant for employed earners, where the CSA can approach the employer direct, non-resident parents who are self-employed, and who refuse to supply details of their profits, are extremely difficult to assess.

The Agency therefore needs to be in a position to build up a financial picture of a non-resident parent who does not provide details of his income, using as wide as possible a range of alternative sources of information. Tax information held by the Inland Revenue may offer the only alternative source of such information for the self-employed. However, the intention is that this will be a last resort measure, where the CSA has asked the non-resident parent for information, and issued a reminder, but there is still inadequate detail to make an assessment.

Access to tax information relating to self-employed non-resident parents is necessary to ensure that more non-resident parents pay the maintenance they owe. Given the Revenue's confidentiality provisions, the CSA can only gain access to this information if there is a specific statutory gateway. This provision provides this gateway and allows direct access, at the Revenue's discretion, to any tax information about self-employed non-resident parents held by the Inland Revenue.

Schedule 2 to the Child Support Act 1991 already allows the Secretary of State to request the Inland Revenue to provide information for the purposes of tracing non-resident parents. This information is restricted to the current address of the non-resident parent and his current employer. The CSA has access, via the Contributions Agency, to earnings information recorded on end-of-year tax returns that employers currently submit to the Inland Revenue. There is currently no provision, however, for other tax information to be used in assessing child support liability.

Commentary

The section inserts a *new paragraph 1A* into Schedule 2 to the Child Support Act 1991.

Sub-paragraph (1) limits the power to obtaining tax information about *self-employed* non-resident parents, not all non-resident parents. It allows access to information for any tax year in which the non-resident parent was or is self-employed.

Sub-paragraph (2) exempts the Revenue from its confidentiality rules when providing this particular information.

Sub-paragraph (3) ensures that the paragraph only applies to disclosures made to the CSA by, or under the authority of, the Commissioners of the Inland Revenue.

Sub-paragraph (4) prevents, as a general rule, any tax information disclosed to the CSA under this power from being disclosed further.

For example, this overrides the power in section 3 of the Social Security Act 1998, which allows child support information to be used for the purposes of administering social security benefits. The exception in *sub-paragraph (4)(b)* allows the information to be used in civil and criminal court cases brought under the Child Support Act. For example, if a non-resident parent is served with a liability order, it may be possible to use information covered by this provision to satisfy the court that there is income to meet the liability.