

WELFARE REFORM ACT 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

PART 4: Miscellaneous

Schedules

Schedule 5 – Minor and consequential amendments relating to Part 2

Services benefits

341. Local authorities who administer housing benefit and council tax benefit have discretionary powers to operate a local scheme to disregard up to the full amount, or any part of a war disablement pension and war widow's pension, which is not already subject to a statutory disregard of £10 a week. This power to disregard war disablement pensions and war widow's pensions will be provided by sections 134(8) (a) and 139(6) (a) of the Social Security Administration Act 1992. It is not subject to any limit on how much local authorities can spend.
342. The current legislation also provides at sections 134(8)(b) and 139(6)(b) of the Social Security Administration Act 1992 that the local authority may choose to disregard other income as part of their local scheme, but only where the source of that income has been prescribed by the Secretary of State. For example, this power is currently used to disregard income of war widowers and certain war widows who are not covered by the definition of war widow's pension in the primary legislation. However, for these types of disregard the legislation provides a spending limit on the amount of prescribed income that local authorities are able to disregard.
343. *Paragraphs 3, 4, 10 and 14 of Schedule 5* relate to services benefits. *Paragraphs 3 and 4* will amend section 134(8)(a) and 139(6)(a) of the Social Security Administration Act 1992 to enable the Secretary of State to prescribe in secondary legislation which pensions are to be included within the definitions of "war disablement pension" and "war widow's pension". A "war widow's pension" is defined to include corresponding pensions payable to a widower or surviving civil partner. This ensures that war widowers and certain war widows whose entitlement for being included within a local authority discretionary scheme is currently provided through prescription by the Secretary of State is covered by the primary legislation and thereby avoids any potential indirect discrimination by these pensions being subject to a spending limit as is currently the case. The amendment also allows the Secretary of State the flexibility to add further pensions to the definitions of qualifying service pensions, without the need for further amendments to primary legislation.