



# Welfare Reform Act 2007

## 2007 CHAPTER 5

### PART 2

#### HOUSING BENEFIT AND COUNCIL TAX BENEFIT

#### 30 Local housing allowance

- (1) In section 130 of the Contributions and Benefits Act (housing benefit) subsection (4) ceases to have effect.
- (2) After that section insert—

##### “130A Appropriate maximum housing benefit

- (1) For the purposes of section 130 above, the appropriate maximum housing benefit (in this section referred to as “the AMHB”) is determined in accordance with this section.
- (2) Regulations must prescribe the manner in which the AMHB is to be determined.
- (3) The regulations may provide for the AMHB to be ascertained in the prescribed manner by reference to rent officer determinations.
- (4) The regulations may require an authority administering housing benefit in any prescribed case—
  - (a) to apply for a rent officer determination, and
  - (b) to do so within such time as may be specified in the regulations.
- (5) The regulations may make provision as to the circumstances in which, for the purpose of determining the AMHB, the amount of the liability mentioned in section 130(1)(a) above must be taken to be the amount of a rent officer determination instead of the actual amount of that liability.
- (6) Regulations under subsection (5) may also make provision for the liability of a person who, by virtue of regulations under section 137(2)(j) below, is treated

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as having a liability mentioned in section 130(1)(a) above to be the amount of a rent officer determination.

(7) A rent officer determination is a determination made by a rent officer in the exercise of functions under section 122 of the Housing Act 1996.”

(3) In Schedule 7 to the Child Support, Pensions and Social Security Act 2000 (c. 19) (housing benefit and council tax benefit: revisions and appeals), in paragraph 4—

(a) in sub-paragraph (1) for “sub-paragraph (4)” substitute “ sub-paragraphs (4) and (4A) ”;

(b) after sub-paragraph (4) insert—

“(4A) Regulations may prescribe the cases and circumstances in which, and the procedure by which, a decision relating to housing benefit must be made by the appropriate relevant authority.”

#### Commencement Information

**I1** S. 30(1) in force at 7.4.2008 by S.I. 2007/2872, **art. 2(1)(a)**

**I2** S. 30(2) in force at 1.10.2007 for specified purposes by S.I. 2007/2872, **art. 2(2)(a)** (with arts. 3-5)

**I3** S. 30(2) in force at 7.4.2008 in so far as not already in force by S.I. 2007/2872, **art. 2(3)** (with arts. 3-5)

**I4** S. 30(3) in force at 1.10.2007 for specified purposes by S.I. 2007/2872, **art. 2(2)(b)** (with arts. 3-5)

**I5** S. 30(3) in force at 7.4.2008 in so far as not already in force by S.I. 2007/2872, **art. 2(3)** (with arts. 3-5)

### 31 Loss of housing benefit following eviction for anti-social behaviour, etc.

(1) After section 130A of the Contributions and Benefits Act (inserted by section 30) insert—

#### “130B Loss of housing benefit following eviction on certain grounds

(1) If the following conditions are satisfied, then housing benefit is payable in the case of a person (“the former occupier”) subject to subsection (4)—

(a) a court makes a relevant order for possession of a dwelling occupied by him as his home;

(b) in consequence of the order he ceases to occupy the dwelling;

(c) either of the conditions in subsections (2) and (3) is satisfied; and

(d) the conditions for entitlement to housing benefit are or become satisfied with respect to him.

(2) The condition in this subsection is that the former occupier fails, without good cause, to comply with a warning notice served on him by a relevant local authority in England and Wales after he has ceased to occupy the dwelling.

(3) The condition in this subsection is that—

(a) the former occupier was, after he ceased to occupy the dwelling, required by a relevant local authority in Scotland to take specified action with the aim mentioned in subsection (10),

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- (b) the former occupier was warned by the relevant local authority that if he failed to comply with the requirement the amount of housing benefit payable to him would be affected,
  - (c) the former occupier fails, without good cause, to comply with the requirement, and
  - (d) the relevant local authority recommends that housing benefit be payable to the former occupier subject to subsection (4).
- (4) During the restriction period or such part of it as may be prescribed, one or both of the following applies—
  - (a) the rate of the benefit is reduced in such a manner as may be prescribed;
  - (b) the benefit is payable only if the circumstances are such as may be prescribed.
- (5) The restriction period begins with the earliest date on which the conditions set out in subsections (1) to (3) are satisfied.
- (6) That period stops running if the relevant local authority considers that the restriction set out in subsection (4) should no longer apply (whether because the former occupier is taking action to improve his behaviour or for any other reason), but starts running again if—
  - (a) in England and Wales, the former occupier fails to comply with a further warning notice served on him;
  - (b) in Scotland, the condition in subsection (7) is satisfied.
- (7) The condition is that—
  - (a) the former occupier fails to comply with a further requirement such as is mentioned in paragraph (a) of subsection (3), having been warned as mentioned in paragraph (b) of that subsection, and
  - (b) the relevant local authority recommends that the restriction period starts running again.
- (8) The restriction period shall not include any period which falls more than five years after the date on which the order for possession was made.
- (9) A former occupier may not be subject to more than one restriction period in respect of one order for possession.
- (10) A relevant local authority is—
  - (a) in England and Wales, a local authority within the meaning of section 1 of the Local Government Act 2000, or
  - (b) in Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994,which provides or may provide services to a former occupier with the aim of ending, or preventing repetition of, the conduct which may lead or has led to the making of a relevant order for possession.
- (11) A warning notice is a notice in the prescribed form—
  - (a) requiring the former occupier to take specified action with the aim mentioned in subsection (10),
  - (b) specifying the time when, or within which, that action must be taken, and

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- (c) warning the former occupier that if he fails to take the action the amount of housing benefit payable to him would be affected.

### **130C Relevant orders for possession**

- (1) In section 130B a relevant order for possession is, in England and Wales—
  - (a) an order made under section 84 of the Housing Act 1985 (secure tenancies) on Ground 2 set out in Schedule 2 to that Act;
  - (b) an order made under section 7 of the Housing Act 1988 (assured tenancies) on Ground 14 set out in Schedule 2 to that Act;
  - (c) an order made under section 98 of the Rent Act 1977 (protected or statutory tenancies) in the circumstances specified in Case 2 in Schedule 15 to that Act.
- (2) In that section a relevant order for possession is, in Scotland—
  - (a) an order made under section 16(2) of the Housing (Scotland) Act 2001 (secure tenancies) on one of the grounds set out in paragraphs 2 and 7 in Part 1 of Schedule 2 to that Act;
  - (b) an order made in accordance with section 18 of the Housing (Scotland) Act 1988 (assured tenancies) on Ground 15 in Part 2 of Schedule 5 to that Act;
  - (c) an order made in accordance with section 11 of the Rent (Scotland) Act 1984 (protected or statutory tenancies) in the circumstances specified in Case 2 in Part 1 of Schedule 2 to that Act.
- (3) For the purposes of subsections (1) and (2) it does not matter whether the order is made on the grounds or in the circumstances there mentioned alone or together with other grounds or circumstances.
- (4) Subsections (5) and (6) apply if the court—
  - (a) stays (in Scotland, sists) or suspends the execution of a relevant order for possession, or postpones the date of possession under it, and
  - (b) imposes a condition (or conditions) on that stay, sist, suspension or postponement.
- (5) If a condition relates to the behaviour of a person or persons occupying the dwelling, section 130B(4) applies only if the order takes effect as a result of a breach of that condition.
- (6) Section 130B(4) does not apply if the condition (or, if there is more than one, each of them) relates only to matters other than the behaviour of a person or persons occupying the dwelling.

### **130D Loss of housing benefit: supplementary**

- (1) Regulations may provide that, where housing benefit has been paid subject to the restriction set out in section 130B(4), in prescribed circumstances—
  - (a) the former occupier must be paid some or all of the amount of the benefit which, by virtue of that subsection, has not been payable to him, and
  - (b) such other adjustments must be made as are prescribed.

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- (2) The Secretary of State may by order vary the definition of relevant order for possession by—
  - (a) adding to or removing from it orders of a specified description;
  - (b) specifying circumstances in which it includes orders of a specified description.
- (3) Regulations may prescribe—
  - (a) matters which are, or are not, to be taken into account in determining whether a person has, or does not have, good cause for failing to take action specified in a warning notice or failing to comply with a requirement such as is mentioned in section 130B(3)(a);
  - (b) circumstances in which a person is, or is not, to be regarded as having, or not having, such good cause.
- (4) Expressions used in this section and in section 130B have the meaning given in that section.

### **130E Couples**

- (1) This section applies where at any time the conditions for entitlement to housing benefit are satisfied with respect to a person who is a member of a couple.
- (2) Where paragraphs (a) and (b) of section 130B(1) are satisfied in relation to both members of the couple (whether or not in respect of the same dwelling), then for the purposes of subsection (2) or (3) of that section, the failure by one member of the couple to comply with a warning notice or with a requirement such as is mentioned in section 130B(3)(a) must be treated also as a failure by his partner to comply with it.
- (3) Where paragraph (a) of section 130B(1) is not satisfied in relation to one member of the couple, then subsection (4) of that section does not apply to his partner (even if paragraphs (a), (b) and (c) of section 130B(1) are satisfied in relation to the partner).
- (4) References to a person's partner are to the other member of the couple concerned.

### **130F Information provision**

- (1) The Secretary of State may by regulations require—
  - (a) a court which makes a relevant order for possession, or
  - (b) any other person or description of person who the Secretary of State thinks is or may be aware of the making of such an order,to notify him of the making of the order and to provide him with such details of matters in connection with the order as may be prescribed.
- (2) The Secretary of State may provide—
  - (a) information obtained under subsection (1), or
  - (b) information which is relevant to the exercise by him of any function relating to housing benefit,

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to a relevant local authority, or a person authorised to exercise any function of such an authority relating to services mentioned in section 130B(10), for use in the provision of such services.

(3) The Secretary of State may by regulations require—

- (a) a relevant local authority, or
- (b) a person authorised to exercise any function of such an authority relating to services mentioned in section 130B(10),

to supply relevant information held by the authority or other person to, or to a person providing services to, the Secretary of State for use for any purpose relating to the administration of housing benefit.

(4) The Secretary of State may by regulations require—

- (a) an authority administering housing benefit,
- (b) a person authorised to exercise any function of such an authority relating to such a benefit,
- (c) a relevant local authority, or
- (d) a person authorised to exercise any function of such an authority relating to services mentioned in section 130B(10),

to provide relevant information held by that authority or person to an authority or person mentioned in paragraph (a) or (b) for use for any purpose relating to the administration of housing benefit.

(5) The Secretary of State may by regulations require—

- (a) an authority administering housing benefit,
- (b) a person authorised to exercise any function of such an authority relating to such a benefit,
- (c) a relevant local authority, or
- (d) a person authorised to exercise any function of such an authority relating to services mentioned in section 130B(10),

to provide relevant information held by that authority or person to an authority or person mentioned in paragraph (c) or (d) for use in the provision of those services.

(6) Relevant information is—

- (a) if the information is held by an authority administering housing benefit or a person authorised to exercise any function of such an authority, information which is relevant to the exercise of any function relating to housing benefit by the authority or person;
- (b) if the information is held by a relevant local authority or a person authorised to exercise any function of such an authority, information which is relevant to the exercise of any function relating to the provision of services mentioned in section 130B(10).

(7) Information must be supplied under subsection (1), (3), (4) or (5) in such circumstances, in such manner and form, and in accordance with such requirements, as may be prescribed.

(8) “Relevant order for possession” and “relevant local authority” have the same meaning as in section 130B.

(9) Subsections (1) and (5) do not extend to Scotland.

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### 130G Pilot schemes relating to loss of housing benefit

- (1) Regulations to which this section applies may be made so as to have effect for a prescribed period.
  - (2) Any regulations which, by virtue of subsection (1), have effect for a limited period are referred to in this section as a “pilot scheme”.
  - (3) A pilot scheme may provide that it applies only in relation to—
    - (a) one or more prescribed areas;
    - (b) one or more prescribed classes of person;
    - (c) persons selected by reference to prescribed criteria.
  - (4) A pilot scheme may make consequential or transitional provision.
  - (5) A pilot scheme (“the previous scheme”) may be replaced by a further pilot scheme making the same, or similar, provision (apart from the prescribed period) to that made by the previous scheme.
  - (6) A pilot scheme may be amended or revoked by regulations under this section.
  - (7) This section applies to—
    - (a) regulations made under any of sections 130B to 130F above;
    - (b) regulations made under any other enactment, so far as they relate to, or are made for purposes which relate to, loss or restriction of housing benefit in pursuance of section 130B above.
  - (8) This section does not extend to Scotland.”
- (2) In section 176(1) of that Act (parliamentary control)—
    - (a) in paragraph (a), at the appropriate place insert— “ section 130B(4); ”;
    - (b) in paragraph (c), at the appropriate place insert— “ section 130D(2); ”.
  - (3) The preceding provisions of this section have no effect after 31st December 2010.
  - (4) The Secretary of State may by order made by statutory instrument make such provision as he thinks necessary or expedient in consequence of the operation of subsection (3) for the purpose of securing that, with effect from 1st January 2011, housing benefit to which a person who is a former occupier (within the meaning of section 130B of the Contributions and Benefits Act) is entitled is not subject to any restriction as mentioned in subsection (4) of that section.

#### Commencement Information

- I6** S. 31 in force at 14.6.2007 for specified purposes by [S.I. 2007/1721](#), [art. 2\(1\)](#)
- I7** S. 31 in force at 1.11.2007 in so far as not already in force by [S.I. 2007/1721](#), [art. 2\(2\)](#)

## 32 Housing benefit and council tax benefit for persons taking up employment

- (1) Subsection (2) applies if a person is entitled to housing benefit or council tax benefit (by virtue of the general conditions of entitlement) and—
  - (a) he is also entitled to a prescribed benefit or his partner is entitled to such a benefit,

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- (b) he or his partner ceases to be entitled to the prescribed benefit in prescribed circumstances, and
  - (c) the prescribed conditions are satisfied.
- (2) That person is entitled to housing benefit or council tax benefit in accordance with this section for a prescribed period.
- (3) Subsection (2) applies whether or not the person would be entitled to housing benefit or council tax benefit by virtue of the general conditions of entitlement for the whole or any part of the prescribed period.
- (4) A person who is entitled to housing benefit or council tax benefit by virtue of subsection (2) must be treated for all purposes—
  - (a) as having made a claim for that benefit, and
  - (b) as having complied with any requirement under or by virtue of any enactment in connection with the making of such a claim.
- (5) Housing benefit or council tax benefit to which a person is entitled by virtue of subsection (2) is to be funded and administered by the appropriate authority.
- (6) Subsection (5) applies whether or not, for the whole or any part of the prescribed period—
  - (a) for the purposes of establishing an entitlement to housing benefit, the person occupies as his home a dwelling in the area of the authority;
  - (b) for the purposes of establishing an entitlement to council tax benefit, the person is a resident of a dwelling in the area of the authority.
- (7) The amount of housing benefit or council tax benefit payable in respect of a person who is entitled to the benefit by virtue of subsection (2) is to be determined in accordance with regulations made for the purposes of this section.
- (8) If an amount of housing benefit or council tax benefit is, by virtue of subsection (2), payable in respect of a person by the appropriate authority for any period, no other amount of housing benefit or council tax benefit is (by virtue of the general conditions of entitlement) payable by that authority in respect of that person for the same period.
- (9) Regulations may make provision in connection with the effect of a person's entitlement to housing benefit or council tax benefit by virtue of subsection (2) on an award of such benefit by virtue of the general conditions of entitlement in respect of that person or his partner.
- (10) Regulations may provide that where—
  - (a) an amount of housing benefit or council tax benefit is, by virtue of subsection (2), payable in respect of a person by the appropriate authority for the whole or any part of a prescribed period, and
  - (b) an amount of housing benefit or council tax benefit is (by virtue of the general conditions of entitlement) payable by a local authority which is not that appropriate authority in respect of that person for the whole or any part of that period,the amount of the benefit payable by the local authority mentioned in paragraph (b) is to be reduced by an amount determined in such manner as is prescribed.
- (11) An amount determined for the purposes of subsection (10) may have the effect of reducing the amount mentioned in paragraph (b) of that subsection to nil.



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- (12) Regulations may make provision as to circumstances in which—
- (a) subsection (8) does not apply;
  - (b) entitlement to housing benefit or council tax benefit of a partner of the person mentioned in subsection (10) is to be treated as the entitlement of that person;
  - (c) benefit is not to be reduced as mentioned in subsection (10).
- (13) For the purposes of subsection (1) a person must be treated as entitled to housing benefit or council tax benefit by virtue of the general conditions of entitlement if—
- (a) he is not so entitled to that benefit at the time he or his partner ceases to be entitled to the prescribed benefit as mentioned in subsection (1)(b), and
  - (b) his entitlement to housing benefit or council tax benefit (as the case may be) ceased during the prescribed period before that time.

#### Commencement Information

**I8** S. 32 in force at 1.4.2008 for specified purposes by [S.I. 2008/411](#), [art. 2\(1\)\(a\)](#)

### 33 Section 32: supplemental

- (1) The administration provisions apply in relation to housing benefit or council tax benefit to which a person is entitled by virtue of subsection (2) of section 32 subject to—
- (a) subsections (4), (5) and (6) of that section;
  - (b) any prescribed modifications of those provisions which the Secretary of State thinks are necessary or expedient in connection with such housing benefit or council tax benefit.
- (2) Modifications under subsection (1)(b) may, in particular, provide that housing benefit or council tax benefit to which a person is entitled by virtue of section 32(2) must or may take the form of a payment by the appropriate authority to another local authority in prescribed circumstances.
- (3) In this section the administration provisions are—
- (a) the Administration Act;
  - (b) subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)) made in pursuance of that Act.
- (4) The power to make regulations under this section or section 32 is exercisable by the Secretary of State by statutory instrument.
- (5) A statutory instrument containing regulations under this section or section 32 is subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) Section 175(3) to (7) of the Contributions and Benefits Act (supplemental provision as to regulations) applies in relation to regulations under this section and section 32 above as it applies in relation to regulations under that Act.
- (7) In section 170 of the Administration Act (Social Security Advisory Committee), in subsection (5)—
- (a) in the definition of “the relevant enactments”, after paragraph (ai) insert—  
“(aj) sections 32 and 33 of the Welfare Reform Act 2007;”;

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- (b) in the definition of “the relevant Northern Ireland enactments”, after paragraph (ai) insert—
  - “(aj) any provisions in Northern Ireland which correspond to sections 32 and 33 of the Welfare Reform Act 2007.”.
- (8) For the purposes of any enactment other than a relevant enactment—
  - (a) entitlement to housing benefit by virtue of section 32(2) above is to be treated as entitlement under section 130 of the Contributions and Benefits Act;
  - (b) entitlement to council tax benefit by virtue of section 32(2) above is to be treated as entitlement under section 131 of that Act.
- (9) In subsection (8), the relevant enactments are—
  - (a) the administration provisions, and
  - (b) Part 7 of the Contributions and Benefits Act, except sections 123 and 134(2) and (4).

#### Commencement Information

**I9** S. 33 in force at 1.4.2008 for specified purposes by S.I. 2008/411, art. 2(1)(b)

### 34 Sections 32 and 33: interpretation

- (1) This section has effect for the interpretation of sections 32 and 33.
- (2) The general conditions of entitlement are the conditions governing entitlement to housing benefit or council tax benefit provided for by Part 7 of the Contributions and Benefits Act.
- (3) The appropriate authority—
  - (a) in relation to housing benefit is the local authority or housing authority which, immediately before the person concerned ceased to be entitled to the prescribed benefit, funded and administered the housing benefit to which he was entitled;
  - (b) in relation to council tax benefit is the billing authority or, in Scotland, local authority which, immediately before the person concerned ceased to be entitled to the prescribed benefit, funded and administered the council tax benefit to which he was entitled.
- (4) The following expressions have the same meaning as in the Administration Act—
  - (a) billing authority;
  - (b) housing authority;
  - (c) local authority.
- (5) Partner, in relation to a person, is a person who is a member of the same couple (within the meaning of Part 7 of the Contributions and Benefits Act) as that person.
- (6) Prescribed means prescribed by regulations.

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#### Commencement Information

**I10** S. 34 in force at 1.4.2008 for specified purposes by S.I. 2008/411, art. 2(1)(c)

### 35 Information relating to housing benefit

- (1) Section 5 of the Administration Act (regulations about claims and benefits) is amended as follows.
- (2) After subsection (2) insert—
  - “(2A) The regulations may also require such persons as are prescribed to provide a rent officer with information or evidence of such description as is prescribed.
  - (2B) For the purposes of subsection (2A), the Secretary of State may prescribe any description of information or evidence which he thinks is necessary or expedient to enable rent officers to carry out their functions under section 122 of the Housing Act 1996.
  - (2C) Information or evidence required to be provided by virtue of subsection (2A) may relate to an individual claim or award or to any description of claims or awards.”
- (3) Subsection (3) ceases to have effect.

#### Commencement Information

- I11** S. 35(1)(2) in force at 1.10.2007 for specified purposes by S.I. 2007/2872, art. 2(2)(c) (with arts. 3-5)
- I12** S. 35(1)(2) in force at 7.4.2008 in so far as not already in force by S.I. 2007/2872, art. 2(3) (with arts. 3-5)
- I13** S. 35(3) in force at 7.4.2008 by S.I. 2007/2872, art. 2(1)(b)

VALID FROM 27/03/2009

### 36 Supply of information by rent officers

After section 122E of the Administration Act (supply of information between authorities administering benefit) insert—

*“Rent officers and housing benefit*

#### **122F Supply by rent officers of information relating to housing benefit**

- (1) The Secretary of State may require a rent officer to supply housing benefit information held by the rent officer to, or to a person providing services to, the Secretary of State for use for purposes relating to any of the following—
  - (a) social security;
  - (b) child support;
  - (c) war pensions;
  - (d) employment or training;

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(e) private pensions policy or retirement planning.

- (2) Information must be supplied under subsection (1) in such manner and form, and in accordance with such requirements, as may be specified in directions given by the Secretary of State.
- (3) A person who receives information by virtue of subsection (1) must not disclose the information to any person unless the disclosure is made—
- (a) for a purpose mentioned in that subsection (including disclosure to another rent officer in connection with any function he has under section 122 of the Housing Act 1996 relating to housing benefit),
  - (b) in accordance with any other enactment, or
  - (c) in accordance with the order of a court.
- (4) Housing benefit information is any information which relates to the exercise by the rent officer of any function he has under section 122 of the Housing Act 1996 relating to housing benefit.”

PROSPECTIVE

**[<sup>F1</sup>37 Payment of housing benefit**

In section 134 of the Administration Act (arrangements for housing benefit), for subsection (2) substitute—

- “(2) Housing benefit is to be paid in such manner as is prescribed, and regulations may, in particular, provide for—
- (a) a payment or payments by the authority administering the benefit to the person entitled to it (E), to some other person on E's behalf or in respect of a liability which E has,
  - (b) a reduction in the amount of any payments which E is liable to make to the authority by way of rent, or
  - (c) such a payment or payments and such a reduction.
- (2A) In any enactment or instrument (whenever passed or made) “pay” in relation to housing benefit includes discharge in any manner prescribed under subsection (2) above.
- (2B) Subsection (2) above does not affect any power under section 5 above to make provision in relation to the payment of benefit.”]

**Textual Amendments**

- F1** Ss. 37-39 repealed (1.4.2013 for specified purposes) by [Welfare Reform Act 2012 \(c. 5\), s. 150\(3\), Sch. 14 Pt. 1](#); S.I. 2013/358, art. 8(c), Sch. 4 (with arts. 9, 10, Sch. 5)

**38 Duty to send inspection reports to the Secretary of State**

- (1) In section 13A of the Local Government Act 1999 (c. 27) (reports of inspections by Auditor General for Wales), after subsection (4) insert—

**Status:** Point in time view as at 07/04/2008. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** Welfare Reform Act 2007, Part 2 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

“(4A) If a report relates to any extent to the administration of housing benefit or council tax benefit and the Auditor General for Wales thinks fit to do so, he shall as soon as reasonably practicable send a copy of the report to the Secretary of State.”

(2) In section 29 of that Act (modifications for Wales), after subsection (2) insert—

“(2A) Subsection (1)(a) does not apply to section 13A(4A).”

#### Commencement Information

**114** S. 38 in force at 1.4.2008 by S.I. 2008/411, art. 2(3)(a)

### 39 Directions by Secretary of State

(1) Section 139D of the Administration Act (power to give directions) is amended in accordance with subsections (2) to (8) below.

(2) In subsection (1) (reports that trigger the section), for paragraph (c) substitute—

“(c) a copy of a report under section 102(1)(b) or (c) of the Local Government (Scotland) Act 1973 which to any extent relates to the administration of benefit has been sent to a local authority and the Secretary of State under section 102(2) of that Act;”.

(3) In subsection (1), after paragraph (c) insert—

“(ca) a copy of a report which has been sent to a local authority under section 13A(3) of the Local Government Act 1999 and to the Secretary of State under section 13A(4A) of that Act;”.

(4) In subsection (2) for “invite” substitute “require”.

(5) After subsection (2) insert—

“(2A) A requirement under subsection (2) above may specify—

- (a) any information or description of information to be provided;
- (b) the form and manner in which the information is to be provided.

(2B) The authority must respond to a requirement under subsection (2) above before the end of such period (not less than one month after the day on which the requirement is made) as the Secretary of State specifies in the requirement.

(2C) The Secretary of State may extend the period specified under subsection (2B) above.”

(6) For subsection (3) substitute—

“(3) After considering—

- (a) the report,
- (b) any proposals made by the authority in response to it, and
- (c) any other information he thinks is relevant,

the Secretary of State may give directions to the authority under subsection (3A) or (3B) or both.

(3A) Directions under this subsection are directions as to—

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*Status: Point in time view as at 07/04/2008. This version of this part contains provisions that are not valid for this point in time.*

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- (a) standards which the authority is to attain in the prevention and detection of fraud relating to benefit or otherwise in the administration of benefit;
  - (b) the time within which the standards are to be attained.
- (3B) Directions under this subsection are directions to take such action as the Secretary of State thinks necessary or expedient for the purpose of improving the authority's exercise of its functions—
- (a) in relation to the prevention and detection of fraud relating to benefit;
  - (b) otherwise in relation to the administration of benefit.
- (3C) A direction under subsection (3B) may specify the time within which anything is to be done.”
- (7) In subsection (4), for “subsection (3)” substitute “ subsection (3A) ”.
- (8) After subsection (4) insert—
- “(4A) If the Secretary of State proposes to give a direction under this section he must give the authority to which the direction is to be addressed an opportunity to make representations about the proposed direction.
- (4B) The Secretary of State may specify a period within which representations mentioned in subsection (4A) above must be made.
- (4C) The Secretary of State may extend a period specified under subsection (4B) above.
- (4D) Subsections (4A) to (4C) do not apply if the Secretary of State thinks that it is necessary for a direction to be given as a matter of urgency.
- (4E) If the Secretary of State acts under subsection (4D) he must give in writing to the authority to which the direction is addressed his reasons for doing so.”
- (9) After section 139D of that Act insert—

**“139DA Directions: variation and revocation**

- (1) The Secretary of State may at any time in accordance with this section vary or revoke a direction under section 139D above.
- (2) A direction may be varied or revoked only if the Secretary of State thinks it is necessary to do so—
  - (a) in consequence of representations made by the authority to which the direction is addressed,
  - (b) to rectify an omission or error, or
  - (c) in consequence of a material change in circumstances.
- (3) The Secretary of State must not vary a direction unless he first—
  - (a) sends a copy of the proposed variation to the authority concerned,
  - (b) gives the authority his reasons for making the variation, and
  - (c) gives the authority an opportunity to make representations about the proposed variation.

**Status:** Point in time view as at 07/04/2008. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** Welfare Reform Act 2007, Part 2 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (4) The Secretary of State may specify a period of not less than one month within which representations mentioned in subsection (3)(c) above must be made.
- (5) The Secretary of State may extend a period specified under subsection (4) above.”

**Commencement Information**

**I15** S. 39 in force at 1.4.2008 by S.I. 2008/411, art. 2(3)(b)

**40 Minor and consequential amendments relating to Part 2**

Schedule 5 (which makes miscellaneous minor amendments and amendments consequential on this Part) has effect.

**Commencement Information**

**I16** S. 40 partly in force, s. 40 in force at Royal Assent for specified purposes and at 3.7.2007 for further specified purposes see s. 70

**I17** S. 40 in force at 1.4.2008 for specified purposes by S.I. 2008/411, art. 2(3)(c)

**I18** S. 40 in force at 7.4.2008 for specified purposes by S.I. 2007/2872, art. 2(1)(d) (with arts. 3-5)

**Status:**

Point in time view as at 07/04/2008. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:**

Welfare Reform Act 2007, Part 2 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.