



Welfare Reform Act 2012

2012 CHAPTER 5

PART 5

SOCIAL SECURITY: GENERAL

Benefit cap

96 Benefit cap

- (1) Regulations may provide for a benefit cap to be applied to the welfare benefits to which a single person or couple is entitled.
- (2) For the purposes of this section, applying a benefit cap to welfare benefits means securing that, where a single person's or couple's total entitlement to welfare benefits in respect of the reference period exceeds the relevant amount, their entitlement to welfare benefits in respect of any period of the same duration as the reference period is reduced by an amount up to or equalling the excess.
- (3) In subsection (2) the “reference period” means a period of a prescribed duration.
- (4) Regulations under this section may in particular—
 - (a) make provision as to the manner in which total entitlement to welfare benefits for any period, or the amount of any reduction, is to be determined;
 - (b) make provision as to the welfare benefit or benefits from which a reduction is to be made;
 - (c) provide for exceptions to the application of the benefit cap;
 - (d) make provision as to the intervals at which the benefit cap is to be applied;
 - (e) make provision as to the relationship between application of the benefit cap and any other reduction in respect of a welfare benefit;
 - (f) provide that where in consequence of a change in the relevant amount, entitlement to a welfare benefit increases or decreases, that increase or decrease has effect without any further decision of the Secretary of State;
 - (g) make supplementary and consequential provision.

Status: Point in time view as at 01/10/2013. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Welfare Reform Act 2012, Part 5 is up to date with all changes known to be in force on or before 31 August 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)

- (5) In this section the “relevant amount” is an amount specified in regulations.
- (6) The amount specified under subsection (5) is to be determined by reference to estimated average earnings.
- (7) In this section “estimated average earnings” means the amount which, in the opinion of the Secretary of State, represents at any time the average weekly earnings of a working household in Great Britain after deductions in respect of tax and national insurance contributions.
- (8) The Secretary of State may estimate such earnings in such manner as the Secretary of State thinks fit.
- (9) Regulations under this section may not provide for any reduction to be made from a welfare benefit—
 - (a) provision for which is within the legislative competence of the Scottish Parliament;
 - (b) provision for which is within the legislative competence of the National Assembly for Wales;
 - (c) provision for which is made by the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government.
- (10) In this section—
 - “couple” means two persons of a prescribed description;
 - “prescribed” means prescribed in regulations;
 - “regulations” means regulations made by the Secretary of State;
 - “single person” means a person who is not a member of a couple;
 - “welfare benefit” means any prescribed benefit, allowance, payment or credit.
- (11) Regulations under subsection (10) may not prescribe as welfare benefits—
 - (a) state pension credit under the State Pension Credit Act 2002, or
 - (b) retirement pensions under Part 2 or 3 of the Social Security Contributions and Benefits Act 1992.

Commencement Information

- II** S. 96 in force at 27.11.2012 for specified purposes and 15.4.2013 in so far as not already in force by [S.I. 2012/2946, art. 2\(2\)](#)

97 Benefit cap: supplementary

- (1) Regulations under section 96 may make different provision for different purposes or cases.
- (2) Regulations under section 96 must be made by statutory instrument.
- (3) A statutory instrument containing the first regulations under section 96 may not be made unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament.

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- (4) A statutory instrument containing other regulations under section 96 is subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) In section 150 of the Social Security Administration Act 1992 (annual up-rating of benefits) after subsection (7) there is inserted—
- “(7A) The Secretary of State—
- (a) shall in each tax year review the amount specified under subsection (5) of section 96 of the Welfare Reform Act 2012 (benefit cap) to determine whether its relationship with estimated average earnings (within the meaning of that section) has changed, and
- (b) after that review may, if the Secretary of State considers it appropriate, include in the draft of an up-rating order provision increasing or decreasing that amount.”
- (6) In Schedule 2 to the Social Security Act 1998 (decisions against which no appeal lies) after paragraph 8 there is inserted—

“Reduction on application of benefit cap

- 8A A decision to apply the benefit cap in accordance with regulations under section 96 of the Welfare Reform Act 2012.”

Commencement Information

- I2** S. 97(1)-(4) in force at 27.11.2012 by S.I. 2012/2946, art. 2(3)
I3 S. 97(5)(6) in force at 15.4.2013 by S.I. 2012/2946, art. 2(4)

Claims and awards

98 Claims and awards

- (1) Section 5(1) of the Social Security Administration Act 1992 (regulations about claims and payments) is amended as follows.
- (2) In paragraph (d) (conditional awards), for the words from “the condition” to the end there is substituted—
- “(i) the condition that the requirements for entitlement are satisfied at a prescribed time after the making of the award, or
- (ii) other prescribed conditions;”.
- (3) In paragraph (e), for “those requirements“ there is substituted “ the conditions referred to in paragraph (d) ”.
- (4) In paragraph (g) (claims made on behalf of another), after “applies” there is inserted “ (including in particular, in the case of a benefit to be claimed by persons jointly, enabling one person to claim for such persons jointly) ”.
- (5) In paragraph (j) (notice of change of circumstances etc), at the end there is inserted “or of any other change of circumstance of a prescribed description”.

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Commencement Information

I4 S. 98 in force at 25.2.2013 by S.I. 2013/358, art. 2(2), Sch. 2 para. 34

99 Powers to require information relating to claims and awards

- (1) Section 5 of the Social Security Administration Act 1992 (regulations about claims and payments) is amended as follows.
- (2) In subsection (1), paragraphs (h) and (hh) (powers to make provision requiring the furnishing of information or evidence) are repealed.
- (3) After that subsection there is inserted—
 - “(1A) Regulations may make provision for requiring a person of a prescribed description to supply any information or evidence which is, or could be, relevant to—
 - (a) a claim or award relating to a benefit to which this section applies, or
 - (b) potential claims or awards relating to such a benefit.”
- (4) Subsection (3A) is repealed.
- (5) In section 22 of the Social Security Act 1998 (suspension for failure to furnish information etc), in subsection (3), for “subsection (1)(hh) of section 5” there is substituted “section 5(1A)”.

Commencement Information

I5 S. 99 in force at 25.2.2013 by S.I. 2013/358, art. 2(2), Sch. 2 para. 35

Payments

100 Payments to joint claimants

In section 5 of the Social Security Administration Act 1992 (regulations about claims and payments), after subsection (3A) there is inserted—

- “(3B) The power in subsection (1)(i) above to make provision for the person to whom a benefit is to be paid includes, in the case of a benefit awarded to persons jointly, power to make provision for the Secretary of State to determine to which of them all or any part of a payment should be made, and in particular for the Secretary of State—
 - (a) to determine that payment should be made to whichever of those persons they themselves nominate, or
 - (b) to determine that payment should be made to one of them irrespective of any nomination by them.”

Commencement Information

I6 S. 100 in force at 25.2.2013 by S.I. 2013/358, art. 2(2), Sch. 2 para. 36

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101 Payments on account

- (1) In section 5(1) of the Social Security Administration Act 1992 (regulations about claims and payments), for paragraph (r) there is substituted—
 - “(r) for the making of a payment on account of such a benefit—
 - (i) in cases where it is impracticable for a claim to be made or determined immediately, or for an award to be determined or paid in full immediately,
 - (ii) in cases of need, or
 - (iii) in cases where the Secretary of State considers in accordance with prescribed criteria that the payment can reasonably be expected to be recovered;”.
- (2) Section 22 of the Welfare Reform Act 2009 (payments on account), which has not been brought into force, is repealed.

Commencement Information

- I7** S. 101(1) in force at 25.2.2013 for specified purposes by S.I. 2013/358, art. 2(1), Sch. 1 para. 17
I8 S. 101(2) in force at 1.4.2013 by S.I. 2013/358, art. 4(2)

Appeals

102 Power to require consideration of revision before appeal

- (1) The Social Security Act 1998 is amended as follows.
- (2) In section 12 (appeals to First-tier Tribunal), in subsection (2)—
 - (a) the words from “in relation to” to the end become paragraph (a), and
 - (b) after that paragraph there is inserted “, or
“(b) where regulations under subsection (3A) so provide.”
- (3) After subsection (3) of that section there is inserted—
 - “(3A) Regulations may provide that, in such cases or circumstances as may be prescribed, there is a right of appeal under subsection (2) in relation to a decision only if the Secretary of State has considered whether to revise the decision under section 9.
 - (3B) The regulations may in particular provide that that condition is met only where—
 - (a) the consideration by the Secretary of State was on an application,
 - (b) the Secretary of State considered issues of a specified description, or
 - (c) the consideration by the Secretary of State satisfied any other condition specified in the regulations.
 - (3C) The references in subsections (3A) and (3B) to regulations and to the Secretary of State are subject to any enactment under or by virtue of which the functions under this Chapter are transferred to or otherwise made exercisable by a person other than the Secretary of State.”
- (4) In subsection (7) of that section—

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- (a) the words from “make provision” to the end become paragraph (a);
 - (b) after that paragraph there is inserted—
 - “(b) provide that, where in accordance with regulations under subsection (3A) there is no right of appeal against a decision, any purported appeal may be treated as an application for revision under section 9.”
- (5) In section 80(1)(a) (affirmative procedure for certain regulations) after “12(2)” there is inserted “ or (3A) ”.
- (6) Schedule 11 contains similar amendments to other Acts.
- (7) Subsection (8) applies where regulations under a provision mentioned in subsection (9) are made so as to have effect in relation to a limited area (by virtue of provision made under section 150(4)(b)).
- (8) Any power to make, in connection with those regulations, provision as respects decisions and appeals may be exercised so that that provision applies only in relation to the area mentioned in subsection (7).
- (9) The provisions referred to in subsection (7) are—
- (a) section 12(3A) of the Social Security Act 1998;
 - (b) section 4(1B) of the Vaccine Damage Payments Act 1979;
 - (c) subsection (2A) of section 20 of the Child Support Act 1991 (as substituted by section 10 of the Child Support, Pensions and Social Security Act 2000);
 - (d) subsection (3A) of section 20 of the Child Support Act 1991 (as it has effect apart from section 10 of the Child Support, Pensions and Social Security Act 2000);
 - (e) section 11(2A) of the Social Security (Recovery of Benefits) Act 1997;
 - (f) paragraph 6(5A) of Schedule 7 to the Child Support, Pensions and Social Security Act 2000;
 - (g) section 50(1A) of the Child Maintenance and Other Payments Act 2008.

Commencement Information

- I9** S. 102(1) in force at 25.2.2013 for specified purposes by S.I. 2013/358, art. 2(1), **Sch. 1 para. 18**
- I10** S. 102(1) in force at 25.2.2013 for specified purposes by S.I. 2013/358, art. 2(2), **Sch. 2 para. 37**
- I11** S. 102(2)-(5) in force at 25.2.2013 by S.I. 2013/358, art. 2(2), **Sch. 2 para. 37**
- I12** S. 102(6) in force at 25.2.2013 for specified purposes by S.I. 2013/358, art. 2(1), **Sch. 1 para. 18**
- I13** S. 102(6) in force at 29.4.2013 for specified purposes and subsequently on the days on which and for the purposes for which "the amending provisions" are brought into force by secondary legislation by S.I. 2013/983, **art. 8**

103 Supersession of decisions of former appellate bodies

- (1) Schedule 12 contains amendments reinstating powers to make decisions superseding decisions made by appellate bodies before their functions were transferred to the First-tier Tribunal and Upper Tribunal.
- (2) The following have effect as if they had come into force on 3 November 2008—
 - (a) the amendments made by Schedule 12, and

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- (b) if regulations made in the exercise of the powers conferred by virtue of those amendments so provide, those regulations.

Electronic communications

104 Electronic communications

- (1) In section 189 of the Social Security Administration Act 1992 (regulations and orders - general), after subsection (5) there is inserted—

“(5A) The provision referred to in subsection (5) includes, in a case where regulations under this Act require or authorise the use of electronic communications, provision referred to in section 8(4) and (5) and 9(5) of the Electronic Communications Act 2000.

(5B) For the purposes of subsection (5A), references in section 8(4) and (5) and 9(5) of the Electronic Communications Act 2000 to an order under section 8 of that Act are to be read as references to regulations under this Act; and references to anything authorised by such an order are to be read as references to anything required or authorised by such regulations.”

- (2) In section 79 of the Social Security Act 1998 (regulations and orders), after subsection (6) there is inserted—

“(6A) The provision referred to in subsection (6) includes, in a case where regulations under this Act require or authorise the use of electronic communications, provision referred to in section 8(4) and (5) and 9(5) of the Electronic Communications Act 2000.

(6B) For the purposes of subsection (6A), references in section 8(4) and (5) and 9(5) of the Electronic Communications Act 2000 to an order under section 8 of that Act are to be read as references to regulations under this Act; and references to anything authorised by such an order are to be read as references to anything required or authorised by such regulations.”

Commencement Information

I14 S. 104 in force at 25.2.2013 by S.I. 2013/358, art. 2(2), Sch. 2 para. 38

Recovery of benefits

105 Recovery of benefit payments

- (1) In the Social Security Administration Act 1992, after section 71ZA there is inserted—

“Recovery of benefit payments

71ZB Recovery of overpayments of certain benefits

- (1) The Secretary of State may recover any amount of the following paid in excess of entitlement—

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- (a) universal credit,
 - (b) jobseeker's allowance,
 - (c) employment and support allowance, and
 - (d) except in prescribed circumstances, housing credit (within the meaning of the State Pension Credit Act 2002).
- (2) An amount recoverable under this section is recoverable from—
- (a) the person to whom it was paid, or
 - (b) such other person (in addition to or instead of the person to whom it was paid) as may be prescribed.
- (3) An amount paid in pursuance of a determination is not recoverable under this section unless the determination has been—
- (a) reversed or varied on an appeal, or
 - (b) revised or superseded under section 9 or section 10 of the Social Security Act 1998,
- except where regulations otherwise provide.
- (4) Regulations may provide that amounts recoverable under this section are to be calculated or estimated in a prescribed manner.
- (5) Where an amount of universal credit is paid for the sole reason that a payment by way of prescribed income is made after the date which is the prescribed date for payment of that income, that amount is for the purposes of this section paid in excess of entitlement.
- (6) In the case of a benefit referred to in subsection (1) which is awarded to persons jointly, an amount paid to one of those persons may for the purposes of this section be regarded as paid to the other.
- (7) An amount recoverable under this section may (without prejudice to any other means of recovery) be recovered—
- (a) by deduction from benefit (section 71ZC);
 - (b) by deduction from earnings (section 71ZD);
 - (c) through the courts etc (section 71ZE);
 - (d) by adjustment of benefit (section 71ZF).

71ZC Deduction from benefit

- (1) An amount recoverable from a person under section 71ZB may be recovered by deducting the amount from payments of prescribed benefit.
- (2) Where an amount recoverable from a person under section 71ZB was paid to the person on behalf of another, subsection (1) authorises its recovery from the person by deduction—
- (a) from prescribed benefits to which the person is entitled,
 - (b) from prescribed benefits paid to the person to discharge (in whole or in part) an obligation owed to that person by the person on whose behalf the recoverable amount was paid, or
 - (c) from prescribed benefits paid to the person to discharge (in whole or in part) an obligation owed to that person by any other person.

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- (3) Where an amount is recovered as mentioned in paragraph (b) of subsection (2), the obligation specified in that paragraph shall in prescribed circumstances be taken to be discharged by the amount of the deduction.
- (4) Where an amount is recovered as mentioned in paragraph (c) of subsection (2), the obligation specified in that paragraph shall in all cases be taken to be so discharged.

71ZD Deduction from earnings

- (1) Regulations may provide for amounts recoverable under section 71ZB to be recovered by deductions from earnings.
- (2) In this section “earnings” has such meaning as may be prescribed.
- (3) Regulations under subsection (1) may include provision—
 - (a) requiring the person from whom an amount is recoverable (“the beneficiary”) to disclose details of their employer, and any change of employer, to the Secretary of State;
 - (b) requiring the employer, on being served with a notice by the Secretary of State, to make deductions from the earnings of the beneficiary and to pay corresponding amounts to the Secretary of State;
 - (c) as to the matters to be contained in such a notice and the period for which a notice is to have effect;
 - (d) as to how payment is to be made to the Secretary of State;
 - (e) as to a level of earnings below which earnings must not be reduced;
 - (f) allowing the employer, where the employer makes deductions, to deduct a prescribed sum from the beneficiary's earnings in respect of the employer's administrative costs;
 - (g) requiring the employer to keep records of deductions;
 - (h) requiring the employer to notify the Secretary of State if the beneficiary is not, or ceases to be, employed by the employer;
 - (i) creating a criminal offence for non-compliance with the regulations, punishable on summary conviction by a fine not exceeding level 3 on the standard scale;
 - (j) with respect to the priority as between a requirement to deduct from earnings under this section and—
 - (i) any other such requirement;
 - (ii) an order under any other enactment relating to England and Wales which requires deduction from the beneficiary's earnings;
 - (iii) any diligence against earnings.

71ZE Court action etc

- (1) Where an amount is recoverable under section 71ZB from a person residing in England and Wales, the amount is, if a county court so orders, recoverable—
 - (a) under section 85 of the County Courts Act 1984, or
 - (b) otherwise as if it were payable under an order of the court.

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- (2) Where an amount is recoverable under section 71ZB from a person residing in Scotland, the amount recoverable may be enforced as if it were payable under an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.
- (3) Any costs of the Secretary of State in recovering an amount of benefit under this section may be recovered by him as if they were amounts recoverable under section 71ZB.
- (4) In any period after the coming into force of this section and before the coming into force of section 62 of the Tribunals, Courts and Enforcement Act 2007, subsection (1)(a) has effect as if it read “by execution issued from the county court”.

71ZF Adjustment of benefit

Regulations may for the purpose of the recovery of amounts recoverable under section 71ZB make provision—

- (a) for treating any amount paid to a person under an award which it is subsequently determined was not payable—
 - (i) as properly paid, or
 - (ii) as paid on account of a payment which it is determined should be or should have been made,
 and for reducing or withholding arrears payable by virtue of the subsequent determination;
- (b) for treating any amount paid to one person in respect of another as properly paid for any period for which it is not payable in cases where in consequence of a subsequent determination—
 - (i) the other person is entitled to a payment for that period, or
 - (ii) a third person is entitled in priority to the payee to a payment for that period in respect of the other person,
 and by reducing or withholding any arrears payable for that period by virtue of the subsequent determination.

71ZG Recovery of payments on account

- (1) The Secretary of State may recover any amount paid under section 5(1)(r) (payments on account).
- (2) An amount recoverable under this section is recoverable from—
 - (a) the person to whom it was paid, or
 - (b) such other person (in addition to or instead of the person to whom it was paid) as may be prescribed.
- (3) Regulations may provide that amounts recoverable under this section are to be calculated or estimated in a prescribed manner.
- (4) In the case of a payment on account of a benefit which is awarded to persons jointly, an amount paid to one of those persons may for the purposes of this section be regarded as paid to the other.

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- (5) Sections 71ZC, 71ZD and 71ZE apply in relation to amounts recoverable under this section as to amounts recoverable under section 71ZB.

71ZH Recovery of hardship payments etc

- (1) The Secretary of State may recover any amount paid by way of—
- (a) a payment under section 28 of the Welfare Reform Act 2012 (universal credit hardship payments) which is recoverable under that section,
 - (b) a payment under section 19C of the Jobseekers Act 1995 (jobseeker's allowance hardship payments) which is recoverable under that section,
 - (c) a payment of a jobseeker's allowance under paragraph 8 or 8A of Schedule 1 to that Act (exemptions), where the allowance is payable at a prescribed rate under paragraph 9 of that Schedule and is recoverable under that paragraph,
 - (d) a payment of a jobseeker's allowance under paragraph 10 of that Schedule (claims yet to be determined etc) which is recoverable under that paragraph, or
 - (e) a payment which is recoverable under section 6B(5A)(d) or (7)(d), 7(2A)(d) or (4)(d), 8(3)(aa), (4)(d) or 9(2A)(d) or (4)(d) of the Social Security Fraud Act 2001.
- (2) An amount recoverable under this section is recoverable from—
- (a) the person to whom it was paid, or
 - (b) such other person (in addition to or instead of the person to whom it was paid) as may be prescribed.
- (3) Regulations may provide that amounts recoverable under this section are to be calculated or estimated in a prescribed manner.
- (4) Where universal credit or a jobseeker's allowance is claimed by persons jointly, an amount paid to one claimant may for the purposes of this section be regarded as paid to the other.
- (5) Sections 71ZC to 71ZF apply in relation to amounts recoverable under this section as to amounts recoverable under section 71ZB.”
- (2) In section 71 of that Act (overpayments - general), in subsection (11)(ab), at the end there is inserted “excluding housing credit (see section 71ZB)”.
- (3) In section 115A of that Act (penalty as alternative to prosecution), in subsection (1), after “71” there is inserted “ 71ZB ”.
- (4) In section 115B of that Act (penalty as alternative to prosecution: colluding employers etc)—
- (a) for subsection (4) there is substituted—

“(4) If the recipient of a notice under subsection (3) above agrees, in the specified manner, to pay the penalty—

 - (a) the amount of the penalty shall be recoverable from the recipient by the Secretary of State or authority; and

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- (b) no criminal proceedings shall be instituted against the recipient in respect of the conduct to which the notice relates.
- (4A) Sections 71ZC, 71ZD and 71ZE above apply in relation to amounts recoverable under subsection (4)(a) above as to amounts recoverable by the Secretary of State under section 71ZB above (and, where the notice is given by an authority administering housing benefit or council tax benefit, those sections so apply as if references to the Secretary of State were to that authority).”;
- (b) in subsection (9), the definition of “relevant benefit” is repealed.
- (5) In Schedule 1 to the Jobseekers Act 1995 (supplementary provision)—
- (a) in paragraph 9, at the end there is inserted—
- “**(c)** as to whether the whole or part of any amount of a jobseeker's allowance which is payable as specified in paragraph (a) is recoverable.”;
- (b) in paragraph 10, for sub-paragraph (5)(a) there is substituted—
- “**(a)** as to whether the whole or part of any amount paid by virtue of sub-paragraph (1) or (2) is recoverable.”.
- (6) In section 12 of the Social Security Act 1998 (appeal to First-tier Tribunal), in subsection (4), after “71” there is inserted “, 71ZB, 71ZG, 71ZH, ”.
- (7) In Schedule 3 to that Act (decisions against which an appeal lies), after paragraph 6 there is inserted—
- “6A A decision as to whether payment of housing credit (within the meaning of the State Pension Credit Act 2002) is recoverable under section 71ZB of the Administration Act.
- 6B A decision as to the amount of payment recoverable under section 71ZB, 71ZG or 71ZH of the Administration Act.”

Commencement Information

- I15** S. 105(1) in force at 1.7.2012 for specified purposes by S.I. 2012/1246, **art. 2(4)(a)(b)**
- I16** S. 105(1) in force at 1.10.2012 for specified purposes by S.I. 2012/1246, **art. 2(5)(a)**
- I17** S. 105(1) in force at 29.4.2013 for specified purposes by S.I. 2013/358, **art. 5(2)(3)(a)(3A)** (as amended (24.4.2013) by S.I. 2013/983, art. 23)
- I18** S. 105(3)(5)(6) in force at 29.4.2013 by S.I. 2013/358, **art. 5(2)(3)(b)** (as amended (24.4.2013) by S.I. 2013/983, art. 23)
- I19** S. 105(4) in force at 1.10.2012 by S.I. 2012/1246, **art. 2(5)(b)**
- I20** S. 105(7) in force at 29.4.2013 for specified purposes by S.I. 2013/358, **art. 5(2)(3)(c)** (as amended (24.4.2013) by S.I. 2013/983, art. 23)

106 Deduction from earnings: other cases

- (1) In section 71 of the Social Security Administration Act 1992 (overpayments - general), after subsection (9) there is inserted—

Status: Point in time view as at 01/10/2013. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Welfare Reform Act 2012, Part 5 is up to date with all changes known to be in force on or before 31 August 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)

“(9A) Regulations may provide for amounts recoverable under the provisions mentioned in subsection (8) above to be recovered by deductions from earnings.

(9B) In subsection (9A) above “earnings” has such meaning as may be prescribed.

(9C) Regulations under subsection (9A) above may include provision—

- (a) requiring the person from whom an amount is recoverable (“the beneficiary”) to disclose details of their employer, and any change of employer, to the Secretary of State;
- (b) requiring the employer, on being served with a notice by the Secretary of State, to make deductions from the earnings of the beneficiary and to pay corresponding amounts to the Secretary of State;
- (c) as to the matters to be contained in such a notice and the period for which a notice is to have effect;
- (d) as to how payment is to be made to the Secretary of State;
- (e) as to a level of earnings below which earnings must not be reduced;
- (f) allowing the employer, where the employer makes deductions, to deduct a prescribed sum from the beneficiary's earnings in respect of the employer's administrative costs;
- (g) requiring the employer to keep records of deductions;
- (h) requiring the employer to notify the Secretary of State if the beneficiary is not, or ceases to be, employed by the employer;
- (i) creating a criminal offence for non-compliance with the regulations, punishable on summary conviction by a fine not exceeding level 3 on the standard scale;
- (j) with respect to the priority as between a requirement to deduct from earnings under this section and—
 - (i) any other such requirement;
 - (ii) an order under any other enactment relating to England and Wales which requires deduction from the beneficiary's earnings;
 - (iii) any diligence against earnings.”

(2) In section 71ZA of that Act (overpayments out of social fund), before subsection (3) there is inserted—

“(2A) Subsection (9A) of section 71 above as it so applies shall have effect as if the reference to amounts recoverable under the provisions mentioned in subsection (8) of that section were to amounts recoverable under subsections (1) and (4) of that section by virtue of subsection (1) above.”

(3) In section 75 of that Act (overpayments of housing benefit), at the end there is inserted—

“(8) Regulations may provide for amounts recoverable under this section to be recovered by deductions from earnings.

(9) In subsection (8) above “earnings“ has such meaning as may be prescribed.

(10) Regulations under subsection (8) above may include provision—

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- (a) requiring the person from whom an amount is recoverable (“the beneficiary”) to disclose details of their employer, and any change of employer, to the Secretary of State or the authority which paid the benefit;
 - (b) requiring the employer, on being served with a notice by the Secretary of State or the authority which paid the benefit, to make deductions from the earnings of the beneficiary and to pay corresponding amounts to the Secretary of State or that authority;
 - (c) as to the matters to be contained in such a notice and the period for which a notice is to have effect;
 - (d) as to how payment is to be made to the Secretary of State or the authority which paid the benefit;
 - (e) as to a level of earnings below which earnings must not be reduced;
 - (f) allowing the employer, where the employer makes deductions, to deduct a prescribed sum from the beneficiary's earnings in respect of the employer's administrative costs;
 - (g) requiring the employer to keep records of deductions;
 - (h) requiring the employer to notify the Secretary of State or the authority which paid the benefit if the beneficiary is not, or ceases to be, employed by the employer;
 - (i) creating a criminal offence for non-compliance with the regulations, punishable on summary conviction by a fine not exceeding level 3 on the standard scale;
 - (j) with respect to the priority as between a requirement to deduct from earnings under this section and—
 - (i) any other such requirement;
 - (ii) an order under any other enactment relating to England and Wales which requires deduction from the beneficiary's earnings;
 - (iii) any diligence against earnings.”
- (4) In section 78 of that Act (recovery of social fund awards), after subsection (3B) there is inserted—
- “(3C) Regulations may provide for amounts recoverable under subsection (1) above from a person specified in subsection (3) above to be recovered by deductions from earnings.
- (3D) In subsection (3C) above “earnings” has such meaning as may be prescribed.
- (3E) Regulations under subsection (3C) above may include provision referred to in section 71(9C) above.”

Commencement Information

I21 S. 106 in force at 1.7.2012 by S.I. 2012/1246, art. 2(4)(c)

Status: Point in time view as at 01/10/2013. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Welfare Reform Act 2012, Part 5 is up to date with all changes known to be in force on or before 31 August 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)

107 Recovery of child benefit and guardian's allowance

- (1) In section 71(8) of the Social Security Administration Act 1992 (recovery of benefits by deduction from prescribed benefits), the words “, other than an amount paid in respect of child benefit or guardian's allowance,” are repealed.
- (2) In section 69(8) of the Social Security Administration (Northern Ireland) Act 1992 (recovery of benefits by deduction from prescribed benefits), the words “, other than an amount paid in respect of child benefit or guardian's allowance,” are repealed.
- (3) In the Tax Credits Act 2002, in Schedule 4, paragraphs 2 and 8 are repealed.

108 Application of Limitation Act 1980

- (1) Section 38 of the Limitation Act 1980 (interpretation) is amended as follows.
- (2) In subsection (1), in the definition of “action”, at the end there is inserted “(and see subsection (11) below)”.
- (3) At the end there is inserted—
 - “(11) References in this Act to an action do not include any method of recovery of a sum recoverable under—
 - (a) Part 3 of the Social Security Administration Act 1992,
 - (b) section 127(c) of the Social Security Contributions and Benefits Act 1992, or
 - (c) Part 1 of the Tax Credits Act 2002,other than a proceeding in a court of law.”
- (4) The amendments made by this section have effect as if they had come into force at the same time as section 38 of the Limitation Act 1980, except for the purposes of proceedings brought before the coming into force of this section.

Recovery of fines from benefit

109 Recovery of fines etc by deductions from employment and support allowance

- (1) In section 24 of the Criminal Justice Act 1991 (recovery of fines etc by deductions from benefits)—
 - (a) in subsections (1) and (2)(d) the words “income-related” are repealed;
 - (b) in subsection (4) the definition of “income-related employment and support allowance” is repealed.
- (2) In Schedule 3 to the Welfare Reform Act 2007 (consequential amendments relating to Part 1), paragraph 8(b) is repealed.
- (3) The repeals made by this section have effect as if they had come into force on 27 October 2008.

Status: Point in time view as at 01/10/2013. This version of this part contains provisions that are not valid for this point in time.

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Investigation and prosecution of offences

110 Powers to require information relating to investigations

In section 109B of the Social Security Administration Act 1992 (power to require information), in subsection (2)—

- (a) after paragraph (i) (but before the final “and”) there is inserted—
 - “(ia) a person of a prescribed description;”;
- (b) in paragraph (j), for “(i)” there is substituted “ (ia) ”.

Commencement Information

- I22** [S. 110](#) in force at 17.6.2013 for specified purposes and 1.10.2013 in so far as not already in force by [S.I. 2013/1250, art. 3](#)

111 Time limits for legal proceedings

In section 116 of the Social Security Administration Act 1992 (legal proceedings), in subsection (2)—

- (a) in paragraph (a), for “other than an offence relating to housing benefit or council tax benefit” there is substituted “ (other than proceedings to which paragraph (b) applies) ”;
- (b) in paragraph (b), after “proceedings“ there is inserted “brought by the appropriate authority”.

VALID FROM 20/04/2016

112 Prosecution powers of local authorities

- (1) The Social Security Administration Act 1992 is amended as follows.
- (2) After section 116 there is inserted—

“116ZA Local authority powers to prosecute housing benefit and council tax benefit fraud

- (1) This section applies to an authority administering housing benefit or council tax benefit.
- (2) The authority may not bring proceedings against a person for a benefit offence relating to either of those benefits unless—
 - (a) the authority has already started an investigation in relation to that person in respect of the offence,
 - (b) in a case where the proceedings relate to housing benefit, the authority has already started an investigation in relation to the person in respect of a benefit offence relating to council tax benefit, or has already brought proceedings against the person in respect of such an offence,
 - (c) in a case where the proceedings relate to council tax benefit, the authority has already started an investigation in relation to the person

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- in respect of a benefit offence relating to housing benefit, or has already brought proceedings against the person in respect of such an offence,
- (d) the proceedings arise in prescribed circumstances or are of a prescribed description, or
 - (e) the Secretary of State has directed that the authority may bring the proceedings.
- (3) The Secretary of State may direct that in prescribed circumstances, an authority may not bring proceedings by virtue of subsection (2)(a), (b) or (c) despite the requirements in those provisions being met.
- (4) A direction under subsection (2)(e) or (3) may relate to a particular authority or description of authority or to particular proceedings or any description of proceedings.
- (5) If the Secretary of State prescribes conditions for the purposes of this section, an authority may bring proceedings in accordance with this section only if any such condition is satisfied.
- (6) The Secretary of State may continue proceedings which have been brought by an authority in accordance with this section as if the proceedings had been brought in his name or he may discontinue the proceedings if—
- (a) the proceedings were brought by virtue of subsection (2)(a), (b) or (c),
 - (b) he makes provision under subsection (2)(d) which has the effect that the authority would no longer be entitled to bring the proceedings in accordance with this section,
 - (c) he withdraws a direction under subsection (2)(e) in relation to the proceedings, or
 - (d) a condition prescribed under subsection (5) ceases to be satisfied in relation to the proceedings.
- (7) In exercising a power to bring proceedings in accordance with this section, a local authority must have regard to the Code for Crown Prosecutors issued by the Director of Public Prosecutions under section 10 of the Prosecution of Offences Act 1985—
- (a) in determining whether the proceedings should be instituted;
 - (b) in determining what charges should be preferred;
 - (c) in considering what representations to make to a magistrates' court about mode of trial;
 - (d) in determining whether to discontinue proceedings.
- (8) Regulations shall define “an investigation in respect of a benefit offence” for the purposes of this section.
- (9) This section does not apply to Scotland.”
- (3) Section 116A (local authority powers to prosecute benefit fraud) is amended as follows.
- (4) In the heading, after “prosecute” there is inserted “ other ”.
- (5) In subsection (2)—

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- (a) for “unless” there is substituted “only if”;
 - (b) in paragraph (b), for “must not”, there is substituted “may”.
- (6) In subsection (4)(b), for “gives” there is substituted “withdraws”.

Penalties as alternative to prosecution

113 Penalty in respect of benefit fraud not resulting in overpayment

- (1) Section 115A of the Social Security Administration Act 1992 (penalty as alternative to prosecution) is amended as follows.
- (2) After subsection (1) there is inserted—
- “(1A) This section also applies where —
- (a) it appears to the Secretary of State or an authority that there are grounds for instituting proceedings against a person for an offence (under this Act or any other enactment) relating to an act or omission on the part of that person in relation to any benefit, and
 - (b) if an overpayment attributable to the act or omission had been made, the overpayment would have been recoverable from the person by, or due from the person to, the Secretary of State or an authority under or by virtue of section 71, 71ZB, 71A, 75 or 76 above.”
- (3) In subsection (2)(a) for “such proceedings” there is substituted “proceedings referred to in subsection (1) or (1A) above”.
- (4) In subsection (4)—
- (a) in paragraph (a), after “is” there is inserted “or would have been”;
 - (b) in paragraph (b), at the end there is inserted “or to the act or omission referred to in subsection (1A)(a).”
- (5) In subsections (6) and (7), at the beginning there is inserted “In a case referred to in subsection (1)”.
- (6) In subsection (7B)(a), after “is”, in both places, there is inserted “or would have been”.
- (7) In subsection (8) after “subsection (1)(a)” there is inserted “or (1A)(b)”.
- (8) In the Social Security Fraud Act 2001—
- (a) in section 6B(1)(b), the words “by reference to any overpayment” are repealed and for “the offence mentioned in subsection (1)(b) of the appropriate penalty provision” there is substituted “the offence to which the notice relates”;
 - (b) in sections 6C(2)(b) and (3), 8(7)(b) and (8) and 9(7)(b) and (8), for “the overpayment” there is substituted “any overpayment made”.

Commencement Information

I23 S. 113 in force at 8.5.2012 by S.I. 2012/863, art. 2(3)(a)

Status: Point in time view as at 01/10/2013. This version of this part contains provisions that are not valid for this point in time.

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114 Amount of penalty

(1) In section 115A of the Social Security Administration Act 1992 (penalty as alternative to prosecution), for subsection (3) there is substituted—

“(3) The amount of the penalty in a case falling within subsection (1) is 50% of the amount of the overpayment (rounded down to the nearest whole penny), subject to—

- (a) a minimum amount of £350, and
- (b) a maximum amount of £2000.

(3A) The amount of the penalty in a case falling within subsection (1A) is £350.

(3B) The Secretary of State may by order amend—

- (a) the percentage for the time being specified in subsection (3);
- (b) any figure for the time being specified in subsection (3)(a) or (b) or (3A).”

(2) In section 190 of that Act (parliamentary control of orders and regulations), in subsection (1), before paragraph (za) there is inserted—

“(zza) an order under section 115A(3B);”.

Commencement Information

I24 S. 114 in force at 8.5.2012 by S.I. 2012/863, art. 2(3)(b)

115 Period for withdrawal of agreement to pay penalty

(1) The Social Security Administration Act 1992 is amended as follows.

(2) In section 115A (penalty as alternative to prosecution), in subsection (5) (cooling-off period), for “28” there is substituted “ 14 ”.

(3) In section 115B (penalty as alternative to prosecution: colluding employers etc), in subsection (6) (cooling-off period), for “28” there is substituted “ 14 ”.

Commencement Information

I25 S. 115 in force at 8.5.2012 by S.I. 2012/863, art. 2(3)(c)

Civil penalties

116 Civil penalties for incorrect statements and failures to disclose information

(1) After section 115B of the Social Security Administration Act 1992 there is inserted—

“Civil penalties

115C Incorrect statements etc

(1) This section applies where—

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- (a) a person negligently makes an incorrect statement or representation, or negligently gives incorrect information or evidence—
 - (i) in or in connection with a claim for a relevant social security benefit, or
 - (ii) in connection with an award of a relevant social security benefit,
 - (b) the person fails to take reasonable steps to correct the error,
 - (c) the error results in the making of an overpayment, and
 - (d) the person has not been charged with an offence or cautioned, or been given a notice under section 115A, in respect of the overpayment.
- (2) A penalty of a prescribed amount may be imposed by the appropriate authority—
- (a) in any case, on the person;
 - (b) in a case where the person (“A”) is making, or has made, a claim for the benefit for a period jointly with another (“B”), on B instead of A.
- (3) Subsection (2)(b) does not apply if B was not, and could not reasonably be expected to have been, aware that A had negligently made the incorrect statement or representation or given the incorrect information or evidence.
- (4) A penalty imposed under subsection (2) is recoverable by the appropriate authority from the person on whom it is imposed.
- (5) Sections 71ZC, 71ZD and 71ZE apply in relation to amounts recoverable by the appropriate authority under subsection (4) as to amounts recoverable by the Secretary of State under section 71ZB (and, where the appropriate authority is not the Secretary of State, those sections so apply as if references to the Secretary of State were to that authority).
- (6) In this section and section 115D—
- “appropriate authority” means—
 - (a) the Secretary of State, or
 - (b) an authority which administers housing benefit or council tax benefit;
 - “overpayment” has the meaning given in section 115A(8), and the reference to the making of an overpayment is to be construed in accordance with that provision;
 - “relevant social security benefit” has the meaning given in section 121DA(7).

115D Failure to disclose information

- (1) A penalty of a prescribed amount may be imposed on a person by the appropriate authority where—
- (a) the person, without reasonable excuse, fails to provide information or evidence in accordance with requirements imposed on the person by the appropriate authority in connection with a claim for, or an award of, a relevant social security benefit,
 - (b) the failure results in the making of an overpayment, and
 - (c) the person has not been charged with an offence or cautioned, or been given a notice under section 115A, in respect of the overpayment.

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- (2) A penalty of a prescribed amount may be imposed on a person by the appropriate authority where—
 - (a) the person, without reasonable excuse, fails to notify the appropriate authority of a relevant change of circumstances in accordance with requirements imposed on the person under relevant social security legislation,
 - (b) the failure results in the making of an overpayment, and
 - (c) the person has not been charged with an offence or cautioned, or been given a notice under section 115A, in respect of the overpayment.
 - (3) Where a person is making, or has made, a claim for a benefit for a period jointly with another, and both of them fail as mentioned in subsection (1) or (2), only one penalty may be imposed in respect of the same overpayment.
 - (4) A penalty imposed under subsection (1) or (2) is recoverable by the appropriate authority from the person on whom it is imposed.
 - (5) Sections 71ZC, 71ZD and 71ZE apply in relation to amounts recoverable by the appropriate authority under subsection (4) as to amounts recoverable by the Secretary of State under section 71ZB (and, where the appropriate authority is not the Secretary of State, those sections so apply as if references to the Secretary of State were to that authority).
 - (6) In this section “relevant change of circumstances”, in relation to a person, means a change of circumstances which affects any entitlement of the person to any benefit or other payment or advantage under any provision of the relevant social security legislation.”
- (2) In section 190 of that Act (parliamentary control of orders and regulations), in subsection (1), before paragraph (za) there is inserted—
- “(zzb) regulations under section 115C(2) or 115D(1) or (2);”.

Commencement Information

- I26** S. 116(1) in force at 10.5.2012 for specified purposes by S.I. 2012/1246, art. 2(1)(a)
I27 S. 116(1) in force at 1.10.2012 in so far as not already in force by S.I. 2012/1246, art. 2(5)(c)
I28 S. 116(2) in force at 10.5.2012 by S.I. 2012/1246, art. 2(1)(b)

Loss of benefit

117 Benefit offences: disqualifying and sanctionable benefits

- (1) In the Social Security Fraud Act 2001, section 6A (meaning of “disqualifying benefit” and “sanctionable benefit”) is amended as follows.
- (2) In subsection (1), in the definition of “disqualifying benefit”, after paragraph (e) there is inserted—
 - “(f) child tax credit;
 - “(g) working tax credit;”.

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(3) In that subsection, in the definition of “sanctionable benefit”, after paragraph (f) there is inserted—

- “(fa) child tax credit;
- (fb) working tax credit;”.

Commencement Information

- I29** S. 117(1) in force at 1.4.2013 for specified purposes by S.I. 2013/358, **art. 6(4)(a)**
- I30** S. 117(1) in force at 6.4.2013 in so far as not already in force by S.I. 2013/358, **art. 6(5)**
- I31** S. 117(2) in force at 1.4.2013 by S.I. 2013/358, **art. 6(4)(a)**
- I32** S. 117(3) in force at 6.4.2013 by S.I. 2013/358, **art. 6(5)**

118 Benefit offences: period of sanction

- (1) The Social Security Fraud Act 2001 is amended as follows.
- (2) Section 6B (loss of benefit in case of conviction, penalty or caution for benefit offence) is amended as follows.
- (3) In subsection (11), for “the period of four weeks” there is substituted “ the relevant period ”.
- (4) After subsection (11) there is inserted—
 - “(11A) For the purposes of subsection (11) the relevant period is—
 - (a) in a case falling within subsection (1)(a) where the benefit offence, or one of them, is a relevant offence, the period of three years,
 - (b) in a case falling within subsection (1)(a) (but not within paragraph (a) above), the period of 13 weeks, or
 - (c) in a case falling within subsection (1)(b) or (c), the period of four weeks.”
- (5) After subsection (13) there is inserted—
 - “(14) In this section and section 7 “relevant offence” means—
 - (a) in England and Wales, the common law offence of conspiracy to defraud, or
 - (b) a prescribed offence which, in the offender's case, is committed in such circumstances as may be prescribed, and which, on conviction—
 - (i) is found by the court to relate to an overpayment (as defined in section 115A(8) of the Administration Act) of at least £50,000,
 - (ii) is punished by a custodial sentence of at least one year (including a suspended sentence as defined in section 189(7) (b) of the Criminal Justice Act 2003), or
 - (iii) is found by the court to have been committed over a period of at least two years.”
- (6) After subsection (14) (inserted by subsection (5) above) there is inserted—

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“(15) The Secretary of State may by order amend subsection (11A)(a), (b) or (c), or (14)(b)(i), (ii) or (iii) to substitute a different period or amount for that for the time being specified there.”

(7) In section 7 (loss of benefit for second or subsequent conviction of benefit offence), after subsection (1) there is inserted—

“(1A) The following restrictions do not apply if the benefit offence referred to in subsection (1)(a), or any of them, is a relevant offence.”

(8) In section 11 (loss of benefit regulations)—

(a) in the heading, after “benefit” there is inserted “ orders and ”;

(b) in subsection (3) at the end there is inserted—

“(e) regulations under section 6B(14) or an order under section 6B(15), or”;

(c) in subsection (4) after “make”, in both places, there is inserted “ an order or ”.

Commencement Information

I33 S. 118(1)(2) in force at 25.2.2013 for specified purposes by S.I. 2013/358, art. 2(1), Sch. 1 para. 19

I34 S. 118(1)(2)(5)(8)(b) in force at 1.4.2013 in so far as not already in force by S.I. 2013/358, art. 6(4)(b)

I35 S. 118(3)(4)(6)(7)(8)(a)(c) in force at 1.4.2013 by S.I. 2013/358, art. 6(4)(b)

I36 S. 118(5)(8)(b) in force at 25.2.2013 for specified purposes by S.I. 2013/358, art. 2(1), Sch. 1 para. 19

119 Benefit offences: sanctions for repeated benefit fraud

(1) The Social Security Fraud Act 2001 is amended as follows.

(2) In section 6B (loss of benefit in case of conviction, penalty or caution for benefit offence), in subsection (3) for “later“ there is substituted “ current ”.

(3) Section 7 (loss of benefit for second or subsequent conviction of benefit offence) is amended as follows.

(4) In the heading, for “second or subsequent conviction of benefit offence” there is substituted “repeated benefit fraud“.

(5) For subsection (1)(a) to (e) there is substituted—

“(a) a person (“the offender”) is convicted of one or more benefit offences in a set of proceedings (“the current set of proceedings”),

(b) within the period of five years ending on the date on which the benefit offence was, or any of them were, committed, one or more disqualifying events occurred in relation to the offender (the event, or the most recent of them, being referred to in this section as “the earlier disqualifying event”),

(c) the current set of proceedings has not been taken into account for the purposes of any previous application of this section or section 8 or 9 in relation to the offender or any person who was then a member of his family,

(d) the earlier disqualifying event has not been taken into account as an earlier disqualifying event for the purposes of any previous

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- application of this section or either of those sections in relation to the offender or any person who was then a member of his family, and
- (e) the offender is a person with respect to whom the conditions for an entitlement to a sanctionable benefit are or become satisfied at any time within the disqualification period.”
- (6) In subsection (6), for the words from “in relation to” to the end, there is substituted “ in an offender's case, means the relevant period beginning with a prescribed date falling after the date of the conviction in the current set of proceedings ”.
- (7) After that subsection there is inserted—
- “(6A) For the purposes of subsection (6) the relevant period is—
- (a) in a case where, within the period of five years ending on the date on which the earlier disqualifying event occurred, a previous disqualifying event occurred in relation to the offender, the period of three years;
- (b) in any other case, 26 weeks.”
- (8) After subsection (7) there is inserted—
- “(7A) Subsection (7B) applies where, after the agreement of any person (“P”) to pay a penalty under the appropriate penalty provision is taken into account for the purposes of the application of this section in relation to that person—
- (a) P's agreement to pay the penalty is withdrawn under subsection (5) of the appropriate penalty provision,
- (b) it is decided on an appeal or in accordance with regulations under the Social Security Act 1998 or the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) that any overpayment to which the agreement relates is not recoverable or due, or
- (c) the amount of any overpayment to which the penalty relates is revised on an appeal or in accordance with regulations under the Social Security Act 1998 or the Social Security (Northern Ireland) Order 1998 and there is no new agreement by P to pay a penalty under the appropriate penalty provision in relation to the revised overpayment.
- (7B) In those circumstances, all such payments and other adjustments shall be made as would be necessary if no restriction had been imposed by or under this section that could not have been imposed if P had not agreed to pay the penalty.”
- (9) In subsection (8), the following definitions are inserted at the appropriate places—
- ““appropriate penalty provision” has the meaning given in section 6B(2)(a);”
- ““disqualifying event” has the meaning given in section 6B(13).”
- (10) After that subsection there is inserted—
- “(8A) Where a person is convicted of more than one benefit offence in the same set of proceedings, there is to be only one disqualifying event in respect of that set of proceedings for the purposes of this section and—
- (a) subsection (1)(b) is satisfied if any of the convictions take place in the five year periods mentioned there;

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- (b) the event is taken into account for the purposes of subsection (1)(d) if any of the convictions have been taken into account as mentioned there;
- (c) in the case of the earlier disqualifying event mentioned in subsection (6A)(a), the reference there to the date on which the earlier disqualifying event occurred is a reference to the date on which any of the convictions take place;
- (d) in the case of the previous disqualifying event mentioned in subsection (6A)(a), that provision is satisfied if any of the convictions take place in the five year period mentioned there.”

(11) After subsection (10) there is inserted—

“(10A) The Secretary of State may by order amend subsection (6A) to substitute different periods for those for the time being specified there.

(10B) An order under subsection (10A) may provide for different periods to apply according to the type of earlier disqualifying event or events occurring in any case”.

(12) In section 11 (loss of benefit regulations), in subsection (3), after paragraph (e) (as inserted by section 118 above) there is inserted—

“(f) an order under section 7(10A).”.

Commencement Information

I37 S. 119 in force at 1.4.2013 by S.I. 2013/358, art. 6(4)(c)

120 Loss of tax credits

- (1) The Tax Credits Act 2002 is amended as follows.
- (2) After section 36 there is inserted—

“Loss of tax credit provisions

36A Loss of working tax credit in case of conviction etc for benefit offence

- (1) Subsection (4) applies where a person (“the offender”)—
 - (a) is convicted of one or more benefit offences in any proceedings, or
 - (b) after being given a notice under subsection (2) of the appropriate penalty provision by an appropriate authority, agrees in the manner specified by the appropriate authority to pay a penalty under the appropriate penalty provision to the appropriate authority, in a case where the offence to which the notice relates is a benefit offence, or
 - (c) is cautioned in respect of one or more benefit offences.
- (2) In subsection (1)(b)—
 - (a) “the appropriate penalty provision” means section 115A of the Social Security Administration Act 1992 (penalty as alternative to prosecution) or section 109A of the Social Security Administration

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(Northern Ireland) Act 1992 (the corresponding provision for Northern Ireland);

- (b) “appropriate authority” means—
- (i) in relation to section 115A of the Social Security Administration Act 1992, the Secretary of State or an authority which administers housing benefit or council tax benefit, and
 - (ii) in relation to section 109A of the Social Security Administration (Northern Ireland) Act 1992, the Department (within the meaning of that Act) or the Northern Ireland Housing Executive.

- (3) Subsection (4) does not apply by virtue of subsection (1)(a) if, because the proceedings in which the offender was convicted constitute the current set of proceedings for the purposes of section 36C, the restriction in subsection (3) of that section applies in the offender's case.
- (4) If this subsection applies and the offender is a person who would, apart from this section, be entitled (whether pursuant to a single or joint claim) to working tax credit at any time within the disqualification period, then, despite that entitlement, working tax credit shall not be payable for any period comprised in the disqualification period—
- (a) in the case of a single claim, to the offender, or
 - (b) in the case of a joint claim, to the offender or the other member of the couple.
- (5) Regulations may provide in relation to cases to which subsection (4)(b) would otherwise apply that working tax credit shall be payable, for any period comprised in the disqualification period, as if the amount payable were reduced in such manner as may be prescribed.
- (6) For the purposes of this section, the disqualification period, in relation to any disqualifying event, means the relevant period beginning with such date, falling after the date of the disqualifying event, as may be determined by or in accordance with regulations.
- (7) For the purposes of subsection (6) the relevant period is—
- (a) in a case falling within subsection (1)(a) where the benefit offence, or one of them, is a relevant offence, the period of three years,
 - (b) in a case falling within subsection (1)(a) (but not within paragraph (a) above), the period of 13 weeks, or
 - (c) in a case falling within subsection (1)(b) or (c), the period of 4 weeks.
- (8) The Treasury may by order amend subsection (7)(a), (b) or (c) to substitute a different period for that for the time being specified there.
- (9) This section has effect subject to section 36B.
- (10) In this section and section 36B—
- “benefit offence” means any of the following offences committed on or after the day specified by order made by the Treasury—
- (a) an offence in connection with a claim for a disqualifying benefit;
 - (b) an offence in connection with the receipt or payment of any amount by way of such a benefit;

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- (c) an offence committed for the purpose of facilitating the commission (whether or not by the same person) of a benefit offence;
 - (d) an offence consisting in an attempt or conspiracy to commit a benefit offence;
- “disqualifying benefit” has the meaning given in section 6A(1) of the Social Security Fraud Act 2001;
- “disqualifying event” means—
- (a) the conviction falling within subsection (1)(a);
 - (b) the agreement falling within subsection (1)(b);
 - (c) the caution falling within subsection (1)(c);
- “relevant offence” has the meaning given in section 6B of the Social Security Fraud Act 2001.

36B Section 36A: supplementary

- (1) Where—
 - (a) the conviction of any person of any offence is taken in account for the purposes of the application of section 36A in relation to that person, and
 - (b) that conviction is subsequently quashed,all such payments and other adjustments shall be made as would be necessary if no restriction had been imposed by or under section 36A that could not have been imposed if the conviction had not taken place.
- (2) Where, after the agreement of any person (“P”) to pay a penalty under the appropriate penalty provision is taken into account for the purposes of the application of section 36A in relation to that person—
 - (a) P’s agreement to pay the penalty is withdrawn under subsection (5) of the appropriate penalty provision, or
 - (b) it is decided on an appeal or in accordance with regulations under the Social Security Act 1992 or the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) that the overpayment to which the agreement relates is not recoverable or due,all such payments and other adjustments shall be made as would be necessary if no restriction had been imposed by or under section 36A that could not have been imposed if P had not agreed to pay the penalty.
- (3) Where, after the agreement (“the old agreement”) of any person (“P”) to pay a penalty under the appropriate penalty provision is taken into account for the purposes of the application of section 36A in relation to P, the amount of any overpayment made to which the penalty relates is revised on an appeal or in accordance with regulations under the Social Security Act 1998 or the Social Security (Northern Ireland) Order 1998—
 - (a) section 36A shall cease to apply by virtue of the old agreement, and
 - (b) subsection (4) shall apply.
- (4) Where this subsection applies—
 - (a) if there is a new disqualifying event consisting of—

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- (i) P's agreement to pay a penalty under the appropriate penalty regime in relation to the revised overpayment, or
 - (ii) P being cautioned in relation to the offence to which the old agreement relates,
- the disqualification period relating to the new disqualifying event shall be reduced by the number of days in so much of the disqualification period relating to the old agreement as had expired when subsection 36A ceased to apply by virtue of the old agreement, and
- (b) in any other case, all such payments and other adjustments shall be made as would be necessary if no restriction had been imposed by or under section 36A that could not have been imposed if P had not agreed to pay the penalty.
- (5) For the purposes of section 36A—
- (a) the date of a person's conviction in any proceedings of a benefit offence shall be taken to be the date on which the person was found guilty of that offence in those proceedings (whenever the person was sentenced) or in the case mentioned in paragraph (b)(ii) the date of the order for absolute discharge, and
 - (b) references to a conviction include references to—
 - (i) a conviction in relation to which the court makes an order for absolute or conditional discharge,
 - (ii) an order for absolute discharge made by a court of summary jurisdiction in Scotland under section 246(3) of the Criminal Procedure (Scotland) Act 1995 without proceeding to a conviction, and
 - (iii) a conviction in Northern Ireland.
- (6) In this section “the appropriate penalty provision” has the meaning given by section 36A(2)(a).

36C Loss of working tax credit for repeated benefit fraud

- (1) If—
- (a) a person (“the offender”) is convicted of one or more benefit offences in a set of proceedings (“the current set of proceedings”),
 - (b) within the period of five years ending on the date on which the benefit offence was, or any of them were, committed, one or more disqualifying events occurred in relation to the offender (the event, or the most recent of them, being referred to in this section as “the earlier disqualifying event”),
 - (c) the current set of proceedings has not been taken into account for the purposes of any previous application of this section in relation to the offender,
 - (d) the earlier disqualifying event has not been taken into account as an earlier disqualifying event for the purposes of any previous application of this section in relation to the offender, and
 - (e) the offender is a person who would, apart from this section, be entitled (whether pursuant to a single or joint claim) to working tax credit at any time within the disqualification period,

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then, despite that entitlement, the restriction in subsection (3) shall apply in relation to the payment of that benefit in the offender's case.

- (2) The restriction in subsection (3) does not apply if the benefit offence referred to in subsection (1)(a), or any of them, is a relevant offence.
- (3) Working tax credit shall not be payable for any period comprised in the disqualification period—
 - (a) in the case of a single claim, to the offender, or
 - (b) in the case of a joint claim, to the offender or the other member of the couple.
- (4) Regulations may provide in relation to cases to which subsection (3)(b) would otherwise apply that working tax credit shall be payable, for any period comprised in the disqualification period, as if the amount payable were reduced in such manner as may be prescribed.
- (5) For the purposes of this section the disqualification period, in an offender's case, means the relevant period beginning with a prescribed date falling after the date of the conviction in the current set of proceedings.
- (6) For the purposes of subsection (5) the relevant period is—
 - (a) in a case where, within the period of five years ending on the date on which the earlier disqualifying event occurred, a previous disqualifying event occurred in relation to the offender, the period of three years;
 - (b) in any other case, 26 weeks.
- (7) In this section and section 36D—
 - “appropriate penalty provision” has the meaning given in section 36A(2)(a);
 - “benefit offence” means any of the following offences committed on or after the day specified by order made by the Treasury—
 - (a) an offence in connection with a claim for a disqualifying benefit;
 - (b) an offence in connection with the receipt or payment of any amount by way of such a benefit;
 - (c) an offence committed for the purpose of facilitating the commission (whether or not by the same person) of a benefit offence;
 - (d) an offence consisting in an attempt or conspiracy to commit a benefit offence;
 - “disqualifying benefit” has the meaning given in section 6A(1) of the Social Security Fraud Act 2001;
 - “disqualifying event” has the meaning given in section 36A(10);
 - “relevant offence” has the meaning given in section 6B of the Social Security Fraud Act 2001.
- (8) Where a person is convicted of more than one benefit offence in the same set of proceedings, there is to be only one disqualifying event in respect of that set of proceedings for the purposes of this section and—
 - (a) subsection (1)(b) is satisfied if any of the convictions take place in the five year period there;

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- (b) the event is taken into account for the purposes of subsection (1)(d) if any of the convictions have been taken into account as mentioned there;
 - (c) in the case of the earlier disqualifying event mentioned in subsection (6)(a), the reference there to the date on which the earlier disqualifying event occurred is a reference to the date on which any of the convictions take place;
 - (d) in the case of the previous disqualifying event mentioned in subsection (6)(a), that provision is satisfied if any of the convictions take place in the five year period mentioned there.
- (9) The Treasury may by order amend subsection (6) to substitute different periods for those for the time being specified there.
- (10) An order under subsection (9) may provide for different periods to apply according to the type of earlier disqualifying event or events occurring in any case.
- (11) This section has effect subject to section 36D.

36D Section 36C: supplementary

- (1) Where—
- (a) the conviction of any person of any offence is taken into account for the purposes of the application of section 36C in relation to that person, and
 - (b) that conviction is subsequently quashed,
- all such payments and other adjustments shall be made as would be necessary if no restriction had been imposed by or under section 36C that could not have been imposed if the conviction had not taken place.
- (2) Subsection (3) applies where, after the agreement of any person (“P”) to pay a penalty under the appropriate penalty provision is taken into account for the purposes of the application of section 36C in relation to that person—
- (a) P's agreement to pay the penalty is withdrawn under subsection (5) of the appropriate penalty provision,
 - (b) it is decided on an appeal or in accordance with regulations under the Social Security Act 1998 or the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) that any overpayment made to which the agreement relates is not recoverable or due, or
 - (c) the amount of any over payment to which the penalty relates is revised on an appeal or in accordance with regulations under the Social Security Act 1998 or the Social Security (Northern Ireland) Order 1998 and there is no new agreement by P to pay a penalty under the appropriate penalty provision in relation to the revised overpayment.
- (3) In those circumstances, all such payments and other adjustments shall be made as would be necessary if no restriction had been imposed by or under section 36C that could not have been imposed if P had not agreed to pay the penalty.
- (4) For the purposes of section 36C—

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- (a) the date of a person's conviction in any proceedings of a benefit offence shall be taken to be the date on which the person was found guilty of that offence in those proceedings (whenever the person was sentenced) or in the case mentioned in paragraph (b)(ii) the date of the order for absolute discharge, and
 - (b) references to a conviction include references to—
 - (i) a conviction in relation to which the court makes an order for absolute or conditional discharge,
 - (ii) an order for absolute discharge made by a court of summary jurisdiction in Scotland under section 246(3) of the Criminal Procedure (Scotland) Act 1995 without proceeding to a conviction, and
 - (iii) a conviction in Northern Ireland.
- (5) In section 36C references to any previous application of that section—
- (a) include references to any previous application of a provision having an effect in Northern Ireland corresponding to provision made by that section, but
 - (b) do not include references to any previous application of that section the effect of which was to impose a restriction for a period comprised in the same disqualification period.”
- (3) In section 38 (appeals), in subsection (1)—
- (a) the “and” immediately following paragraph (c) is repealed;
 - (b) after that paragraph there is inserted—
 - “(ca) a decision under section 36A or 36C that working tax credit is not payable (or is not payable for a particular period), and”.
- (4) In section 66 (parliamentary etc control of instruments)—
- (a) in subsection (1)—
 - (i) after “no” there is inserted “ order or ”;
 - (ii) for “them” there is substituted “ the order or regulations ”;
 - (b) in subsection (2) before paragraph (a) there is inserted—
 - “(za) an order made by the Treasury under section 36A(8) or 36C(9),
 - (zb) regulations made under section 36A(5) or 36C(4),”;
 - (c) in subsection (3)(a) at the beginning there is inserted “an order or”.
- (5) In section 67 (interpretation), at the appropriate place there is inserted—
- ““cautioned”, in relation to any person and any offence, means cautioned after the person concerned has admitted the offence; and “caution” is to be interpreted accordingly;”.

Commencement Information

- I38** S. 120(1) in force at 1.2.2013 for specified purposes and 6.4.2013 in so far as not already in force by S.I. 2013/178, [art. 2](#)
- I39** S. 120(2) in force at 1.2.2013 for specified purposes and 6.4.2013 in so far as not already in force by S.I. 2013/178, [art. 2](#)
- I40** S. 120(3)(5) in force at 6.4.2013 by S.I. 2013/178, [art. 2](#)

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I41 S. 120(4) in force at 1.2.2013 by S.I. 2013/178, art. 2

PROSPECTIVE

121 Cautions

- (1) In section 6B of the Social Security Fraud Act 2001 (loss of benefit in case of conviction, penalty or caution for benefit offence)—
 - (a) in the heading, for “penalty or caution” there is substituted “ or penalty ”;
 - (b) in subsection (1), after paragraph (a) there is inserted “or”;
 - (c) subsection (1)(c) (cautions) is repealed;
 - (d) in subsection (13), in the definition of “disqualifying event”, after “(1)(a)” there is inserted “or”.
- (2) In section 36A of the Tax Credits Act 2002 (loss of tax working tax credit in case of conviction, penalty or caution for benefit offence) subsection (1)(c) (cautions) is repealed.

Administration of tax credits

122 Tax credit fraud: investigation

In section 109A of the Social Security Administration Act 1992 (authorisations for investigators), at the end there is inserted—

- “(9) This section and sections 109B to 109C below apply as if—
- (a) the Tax Credits Act 2002 were relevant social security legislation, and
 - (b) accordingly, child tax credit and working tax credit were relevant social security benefits for the purposes of the definition of “benefit offence”.

Commencement Information

I42 S. 122 in force at 6.6.2012 by S.I. 2012/1246, art. 2(2) (as amended (31.5.2012) by S.I. 2012/1440, art. 2)

123 Information-sharing for prevention etc of tax credit fraud

- (1) Section 122B of the Social Security Administration Act 1992 (supply of government information for fraud prevention etc) is amended as follows.
- (2) In subsection (2)(a), after “social security” there is inserted “ or tax credits ”.
- (3) In subsection (3)—
 - (a) in paragraph (b), after “1995” there is inserted “ , the Tax Credits Act 2002 ”,
 - (b) in that paragraph, the final “or” is repealed, and
 - (c) after paragraph (c) there is inserted “or
 - (d) it is supplied under section 127 of the Welfare Reform Act 2012.”

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Commencement Information

I43 S. 123 in force at 6.6.2012 by S.I. 2012/1246, art. 2(2) (as amended (31.5.2012) by S.I. 2012/1440, art. 2)

PROSPECTIVE

124 Tax credit fraud: prosecution and penalties

In section 35 of the Tax Credits Act 2002 (offence of fraud), for subsection (2) there is substituted—

- “(2) Where a person is alleged to have committed an offence under this section in relation to payments of a tax credit not exceeding £20,000, the offence is triable summarily only.
- (3) A person who commits an offence under this section is liable on summary conviction pursuant to subsection (2) to imprisonment for a term not exceeding the applicable term, or a fine not exceeding level 5 on the standard scale, or both.
- (4) In subsection (3) the applicable term is—
- (a) for conviction in England and Wales, 51 weeks;
 - (b) for conviction in Scotland or Northern Ireland, 6 months.
- (5) Where a person is alleged to have committed an offence under this section in any other case, the offence is triable either on indictment or summarily.
- (6) A person who commits an offence under this section is liable—
- (a) on summary conviction pursuant to subsection (5), to imprisonment for a term not exceeding the applicable term, or a fine not exceeding the statutory maximum, or both;
 - (b) on conviction on indictment pursuant to subsection (5) to imprisonment for a term not exceeding 7 years, or a fine, or both.
- (7) In subsection (6)(a) the applicable term is—
- (a) for conviction in England and Wales or Scotland, 12 months;
 - (b) for conviction in Northern Ireland, 6 months.
- (8) In relation to an offence under this section committed in England and Wales before the commencement of section 281(5) of the Criminal Justice Act 2003, the reference in subsection (4)(a) to 51 weeks is to be read as a reference to 6 months.
- (9) In relation to an offence under this section committed in England and Wales before the commencement of section 154(1) of the Criminal Justice Act 2003, the reference in subsection (7)(a) to 12 months is to be read as a reference to 6 months.
- (10) In England and Wales—

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- (a) subsection (1) of section 116 of the Social Security Administration Act 1992 (legal proceedings) applies in relation to proceedings for an offence under this section;
 - (b) subsections (2)(a) and (3)(a) of that section apply in relation to proceedings for an offence under this section which is triable summarily only pursuant to subsection (2) above.
- (11) In Scotland, subsection (7)(a) and (b) of section 116 of the Social Security Administration Act 1992 (legal proceedings) apply in relation to proceedings for an offence under this section which is triable summarily only pursuant to subsection (2) above.
- (12) In Northern Ireland—
- (a) subsection (1) of section 110 of the Social Security Administration (Northern Ireland) Act 1992 (legal proceedings) applies in relation to proceedings for an offence under this section;
 - (b) subsections (2)(a) and (3)(a) of that section apply in relation to proceedings for an offence under this section which is triable summarily only pursuant to subsection (2) above.”

125 Unauthorised disclosure of information relating to tax credit offences

In Schedule 4 to the Social Security Administration Act 1992 (persons employed in social security administration or adjudication), in paragraph 1 of Part 2, after “security,” there is inserted “ to the investigation or prosecution of offences relating to tax credits, ”.

Commencement Information

I44 S. 125 in force at 6.6.2012 by S.I. 2012/1246, art. 2(2) (as amended (31.5.2012) by S.I. 2012/1440, art. 2)

126 Tax credits: transfer of functions etc

- (1) Her Majesty may by Order in Council—
- (a) transfer to the Secretary of State any tax credit function of the Treasury or the Commissioners;
 - (b) direct that any tax credit function of the Treasury or the Commissioners is to be exercisable concurrently with the Secretary of State or is to cease to be so exercisable.
- (2) Provision within subsection (1) may be limited so as to apply only in relation to cases within a specified description.
- (3) Her Majesty may by Order in Council, as Her Majesty considers appropriate—
- (a) make provision in connection with a transfer or direction under subsection (1);
 - (b) make other provision within one or more of the following sub-paragraphs—
 - (i) provision applying (with or without modifications) in relation to tax credits any provision of primary or secondary legislation relating to social security;

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- (ii) provision combining or linking any aspect of the payment and management of tax credits with any aspect of the administration of social security;
 - (iii) provision about the use or supply of information held for purposes connected with tax credits, including (in particular) provision authorising or requiring its use or supply for other purposes;
 - (iv) in relation to information held for purposes not connected with tax credits, provision authorising or requiring its use or supply for purposes connected with tax credits.
- (4) An Order may make provision under subsection (3)(b) only if—
 - (a) the Order also makes provision under subsection (1), or
 - (b) a previous Order has made provision under subsection (1).
- (5) Provision within subsection (3)—
 - (a) may confer functions on, or remove functions from, the Secretary of State, the Treasury, the Commissioners, a Northern Ireland department or any other person;
 - (b) may (in particular) authorise the Secretary of State and the Commissioners to enter into arrangements from time to time under which the Commissioners are to provide services to the Secretary of State in connection with tax credits.
- (6) Provision within subsection (3)—
 - (a) may expand the scope of the conduct which constitutes an offence under any primary or secondary legislation, but may not increase the scope of any punishment for which a person may be liable on conviction for the offence;
 - (b) may expand the scope of the conduct in respect of which a civil penalty may be imposed under any primary or secondary legislation, but may not increase the maximum amount of the penalty.
- (7) An Order under this section may include such consequential, supplementary, incidental or transitional provision as Her Majesty considers appropriate including (for example)—
 - (a) provision for transferring or apportioning property, rights or liabilities (whether or not they would otherwise be capable of being transferred or apportioned);
 - (b) provision for substituting any person for any other person in any instrument or other document or in any legal proceedings;
 - (c) provision with respect to the application in relation to the Crown of provision made by the Order.
- (8) A certificate issued by the Secretary of State that any property, rights or liabilities set out in the certificate have been transferred or apportioned by an Order under this section as set out in the certificate is conclusive evidence of the matters so set out.
- (9) An Order under this section may amend, repeal or revoke any primary or secondary legislation.
- (10) A statutory instrument containing an Order under this section is subject to annulment in pursuance of a resolution of either House of Parliament.
- (11) In this section references to tax credits are to child tax credit or working tax credit or both.

Status: Point in time view as at 01/10/2013. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Welfare Reform Act 2012, Part 5 is up to date with all changes known to be in force on or before 31 August 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)

- (12) In this section references to primary or secondary legislation are to such legislation whenever passed or made.
- (13) In this section—
- “the Commissioners” means the Commissioners for Her Majesty's Revenue and Customs;
 - “primary legislation” means an Act (including this Act) or Northern Ireland legislation;
 - “secondary legislation” means an instrument made under primary legislation (including an Order under this section);
 - “tax credit functions” means functions so far as relating to tax credits conferred by or under any primary or secondary legislation.
- (14) In section 5A(3) of the Ministers of the Crown Act 1975, for “section 5(1)” there is substituted “section 5(1)(a) or (b)”.

Information-sharing: Secretary of State and HMRC

127 Information-sharing between Secretary of State and HMRC

- (1) This subsection applies to information which is held for the purposes of any HMRC functions—
- (a) by the Commissioners for Her Majesty's Revenue and Customs, or
 - (b) by a person providing services to them.
- (2) Information to which subsection (1) applies may be supplied—
- (a) to the Secretary of State, or to a person providing services to the Secretary of State, or
 - (b) to a Northern Ireland Department, or to a person providing services to a Northern Ireland Department,
- for use for the purposes of departmental functions.
- (3) This subsection applies to information which is held for the purposes of any departmental functions—
- (a) by the Secretary of State, or by a person providing services to the Secretary of State, or
 - (b) by a Northern Ireland Department, or by a person providing services to a Northern Ireland Department.
- (4) Information to which subsection (3) applies may be supplied—
- (a) to the Commissioners for Her Majesty's Revenue and Customs, or
 - (b) to a person providing services to them,
- for use for the purposes of HMRC functions.
- (5) Information supplied under this section must not be supplied by the recipient of the information to any other person or body without—
- (a) the authority of the Commissioners for Her Majesty's Revenue and Customs, in the case of information supplied under subsection (2);
 - (b) the authority of the Secretary of State, in the case of information held as mentioned in subsection (3)(a) and supplied under subsection (4);

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- (c) the authority of the relevant Northern Ireland Department, in the case of information held as mentioned in subsection (3)(b) and supplied under subsection (4).
- (6) Where information supplied under this section has been used for the purposes for which it was supplied, it is lawful for it to be used for any purposes for which information held for those purposes could be used.
- (7) In this section—
- “departmental functions” means functions relating to—
- (a) social security,
 - (b) employment or training, ^{F1}...
 - (c) the investigation or prosecution of offences relating to tax credits; [^{F2}or
 - (d) child support;]
- “HMRC function” means any function—
- (a) for which the Commissioners for Her Majesty's Revenue and Customs are responsible by virtue of section 5 of the Commissioners for Revenue and Customs Act 2005, or
 - (b) which relates to a matter listed in Schedule 1 to that Act;
- “Northern Ireland Department” means any of the following—
- (a) the Department for Social Development;
 - (b) the Department of Finance and Personnel;
 - (c) the Department for Employment and Learning.
- (8) For the purposes of this section any reference to functions relating to social security includes a reference to functions relating to—
- (a) statutory payments as defined in section 4C(11) of the Social Security Contributions and Benefits Act 1992;
 - (b) maternity allowance under section 35 of that Act;
 - (c) statutory payments as defined in section 4C(11) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;
 - (d) maternity allowance under section 35 of that Act.
- (9) This section does not limit the circumstances in which information may be supplied apart from this section.
- (10) In section 3 of the Social Security Act 1998 (use of information), in subsection (1A), after paragraph (d) there is inserted—
- “(e) the investigation or prosecution of offences relating to tax credits.”

Textual Amendments

- F1** Word in s. 127(7) omitted (1.8.2012) by virtue of [The Public Bodies \(Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), [Sch. para. 102\(a\)](#)
- F2** Words in s. 127(7) inserted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), [Sch. para. 102\(b\)](#)

Status: Point in time view as at 01/10/2013. This version of this part contains provisions that are not valid for this point in time.

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Information-sharing: Secretary of State and DPP

128 Information-sharing between Secretary of State and DPP

- (1) The Secretary of State may supply social security information [^{F3}or child support information] to a person specified in subsection (2) for use for a purpose specified in subsection (3).
- (2) The persons referred to in subsection (1) are—
 - (a) the Director of Public Prosecutions;
 - (b) a person appointed under section 5 of the Prosecution of Offences Act 1985 (conduct of prosecutions on behalf of Crown Prosecution Service).
- (3) The purposes referred to in subsection (1) are—
 - (a) the institution or conduct of criminal proceedings which relate wholly or partly to social security matters [^{F4}or child support];
 - (b) the giving of advice to any person on any matter relating to criminal proceedings, or criminal offences, which relate wholly or partly to social security matters [^{F4}or child support];
 - (c) the exercise in relation to social security matters [^{F5}or child support] of functions assigned to the Director of Public Prosecutions under section 3(2)(g) of the Prosecution of Offences Act 1985;
 - (d) the exercise of functions of the Director of Public Prosecutions under Part 2, 5 or 8 of the Proceeds of Crime Act 2002.
- (4) The reference in subsection (1) to the Secretary of State includes a person providing services to the Secretary of State.
- (5) This section does not limit the circumstances in which information may be supplied apart from this section.
- (6) In this section—

[^{F6}“child support information” means information held for the purposes of any of the Secretary of State’s functions relating to child support;]

“social security information” means information held for the purposes of any of the Secretary of State’s functions relating to social security matters;

“social security matters” means—

 - (a) social security (including the payments and allowances referred to in section 127(8)),
 - (b) tax credits, and
 - (c) schemes and arrangements under section 2 of the Employment and Training Act 1973.

Textual Amendments

- F3** Words in s. 128(1) inserted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 103(2)**
- F4** Words in s. 128(3)(a)(b) inserted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 103(3)**

Status: Point in time view as at 01/10/2013. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Welfare Reform Act 2012, Part 5 is up to date with all changes known to be in force on or before 31 August 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)

- F5** Words in s. 128(3)(c) inserted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 103(3)**
- F6** Words in s. 128(6) inserted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 103(4)**

Commencement Information

- I45** S. 128 in force at 20.3.2012 by [S.I. 2012/863](#), **art. 2(1)(d)**

129 Unlawful disclosure of information supplied under section 128

- (1) A person to whom information is supplied under section 128, or an employee or former employee of such a person, may not disclose the information if it relates to a particular person.
- (2) Subsection (1) does not apply to—
- (a) a disclosure of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it;
 - (b) a disclosure made for the purposes of a function of the Director of Public Prosecutions, where the disclosure does not contravene any restriction imposed by the Director;
 - (c) a disclosure made to the Secretary of State, or a person providing services to the Secretary of State, for the purposes of the exercise of functions relating to social security matters (within the meaning of section 128) [^{F7}or child support];
 - (d) a disclosure made for the purposes of a criminal investigation or criminal proceedings (whether or not in the United Kingdom);
 - (e) a disclosure made for the purposes of—
 - (i) the exercise of any functions of the prosecutor under Parts 2, 3 and 4 of the Proceeds of Crime Act 2002;
 - (ii) the exercise of any functions of the Serious Organised Crime Agency under that Act;
 - (iii) the exercise of any functions of the Director of the Serious Fraud Office, the Director of Public Prosecutions for Northern Ireland or the Scottish Ministers under, or in relation to, Part 5 or 8 of that Act;
 - (iv) investigations or proceedings outside the United Kingdom which have led or may lead to the making of an external order within the meaning of section 447 of that Act;
 - (f) a disclosure made to a person exercising public functions of law enforcement for the purposes of the exercise of those functions in civil proceedings;
 - (g) a disclosure which in the opinion of the Director of Public Prosecutions is desirable for the purpose of safeguarding national security;
 - (h) a disclosure made in pursuance of an order of a court;
 - (i) a disclosure made with the consent of each person to whom the information relates.
- (3) Subsection (1) does not apply in relation to information relating to schemes and arrangements under section 2 of the Employment and Training Act 1973.
- (4) Subsection (1) is subject to any other Act or to an instrument made under an Act.

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- (5) A person who contravenes subsection (1) commits an offence.
- (6) It is a defence for a person charged with an offence under this section of disclosing information to prove that he or she reasonably believed—
 - (a) that the disclosure was lawful, or
 - (b) that the information had already and lawfully been made available to the public.
- (7) A person guilty of an offence under this section is liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both, or
 - (b) on summary conviction, to imprisonment for a term not exceeding twelve months or a fine not exceeding the statutory maximum or both.
- (8) A prosecution for an offence under this section may be instituted only with the consent of the Director of Public Prosecutions.
- (9) In relation to an offence under this section committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (increase in maximum term that may be imposed on summary conviction of offence triable either way), the reference in subsection (7)(b) to twelve months shall have effect as if it were a reference to six months.

Textual Amendments

- F7** Words in s. 129(2)(c) inserted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 104**

Commencement Information

- I46** S. 129 in force at 20.3.2012 by [S.I. 2012/863](#), **art. 2(1)(e)**

Information-sharing involving local authorities etc

130 Information-sharing in relation to provision of overnight care etc

- (1) This section applies where a local authority holds information falling within subsection (2) in relation to a person who is receiving or is likely to receive a relevant service.
- (2) The information referred to in subsection (1) is—
 - (a) information as to the fact of the provision or likely provision of the service;
 - (b) information about when the provision of the service begins or ends or is likely to do so;
 - (c) other prescribed information relating to the service provided and how it is funded (including the extent to which it is funded by the recipient).
- (3) In this section “relevant service means—
 - (a) a service consisting of overnight care in the individual's own home provided by or on behalf of a local authority;
 - (b) a residential care service provided by or on behalf of a local authority;

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- (c) a service consisting of overnight hospital accommodation.
- (4) In subsection (3)(c) “hospital accommodation” means—
- (a) in relation to England, hospital accommodation within the meaning of the National Health Service Act 2006 which is provided by ^{F8}... an NHS trust or an NHS foundation trust;
 - (b) in relation to Wales, hospital accommodation within the meaning of the National Health Service (Wales) Act 2006 which is provided by a Local Health Board or an NHS trust;
 - (c) in relation to Scotland, hospital accommodation within the meaning of the National Health Service (Scotland) Act 1978 which is provided by a Health Board or Special Health Board but excluding accommodation in an institution for providing dental treatment maintained in connection with a dental school.
- (5) The local authority may—
- (a) itself use the information for purposes relating to the payment of a relevant benefit to the individual, or
 - (b) supply the information to a person specified in subsection (6) for those purposes.
- (6) The persons referred to in subsection (5) are—
- (a) the Secretary of State;
 - (b) a person providing services to the Secretary of State;
 - (c) a local authority;
 - (d) a person authorised to exercise any function of a local authority relating to a relevant benefit;
 - (e) a person providing services relating to a relevant benefit to a local authority.
- (7) In this section “relevant benefit“ means—
- (a) universal credit;
 - (b) [^{F9}housing benefit;]
 - (c) [^{F9}council tax benefit;]
 - (d) any prescribed benefit.
- (8) Regulations under subsection (7)(d) may not prescribe a benefit provision for which is within the legislative competence of the Scottish Parliament.

Textual Amendments

F8 Words in s. 130(4)(a) omitted (1.4.2013) by virtue of [The Health and Social Care Act 2012 \(Consequential Amendments\) Order 2013 \(S.I. 2013/594\)](#), arts. 1(2), 7

F9 S. 130(7)(b)(c) 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](#))

Commencement Information

I47 S. 130 in force at 20.3.2012 for specified purposes by [S.I. 2012/863](#), [art. 2\(1\)\(f\)](#)

I48 S. 130 in force at 8.5.2012 in so far as not already in force by [S.I. 2012/863](#), [art. 2\(3\)\(d\)](#)

Status: Point in time view as at 01/10/2013. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Welfare Reform Act 2012, Part 5 is up to date with all changes known to be in force on or before 31 August 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)

131 Information-sharing in relation to welfare services etc

- (1) The Secretary of State, or a person providing services to the Secretary of State, may supply relevant information to a qualifying person for prescribed purposes relating to welfare services or council tax.
- (2) A qualifying person who holds relevant information for a prescribed purpose relating to welfare services may supply that information to—
 - (a) the Secretary of State, or
 - (b) a person providing services to the Secretary of State,
 for a prescribed purpose relating to a relevant social security benefit.
- (3) A qualifying person who holds relevant information for a prescribed purpose relating to welfare services, council tax or housing benefit may—
 - (a) use the information for another prescribed purpose relating to welfare services, council tax or housing benefit;
 - (b) supply it to another qualifying person for use in relation to the same or another prescribed purpose relating to welfare services, council tax or housing benefit.
- (4) Relevant information supplied under subsection (1) or (3) to a qualifying person may be supplied by that person to a person who provides qualifying welfare services for purposes connected with the provision of those services.
- (5) In subsection (4) services are qualifying welfare services if—
 - (a) a local authority, or
 - (b) a person who is a qualifying person by virtue of subsection (11) (g),
 contributes or will contribute to the expenditure incurred in their provision.
- (6) The Secretary of State may not exercise the power in subsection (3) to prescribe purposes for which information may be supplied by a qualifying person so as to prescribe an excepted purpose in relation to excepted information held by a Welsh body.
- (7) In subsection (6)—
 - (a) excepted information is information held by the Welsh body that—
 - (i) is not supplied by, or derived from information supplied to another person by, the Secretary of State or a person providing services to the Secretary of State or a person engaged in the administration of housing benefit, and
 - (ii) is held only for an excepted purpose;
 - (b) an excepted purpose is a purpose relating to a matter provision for which—
 - (i) is within the legislative competence of the National Assembly for Wales, or
 - (ii) is made by the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government.
- (8) The Secretary of State may not exercise the power in subsection (3) to prescribe purposes for which information may be supplied by a qualifying person so as to prescribe an excepted purpose in relation to excepted information held by a Scottish body.
- (9) In subsection (8)—
 - (a) excepted information is information held by the Scottish body that—

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- (i) is not supplied by, or derived from information supplied to another person by, the Secretary of State or a person providing services to the Secretary of State or a person engaged in the administration of housing benefit, and
 - (ii) is held only for an excepted purpose;
 - (b) an excepted purpose is a purpose relating to a matter provision for which is within the legislative competence of the Scottish Parliament.
- (10) Subsections (1) to (4) do not apply in a case where the supply or use of information is authorised by section 130.
- (11) In this section “qualifying person“ means—
 - (a) a local authority;
 - (b) a person authorised to exercise any function of such an authority relating to welfare services or council tax;
 - (c) a person providing services to a local authority relating to welfare services or council tax;
 - (d) an authority which administers housing benefit;
 - (e) a person authorised to exercise any function of such an authority relating to housing benefit;
 - (f) a person providing to such an authority services relating to housing benefit; or
 - (g) a person prescribed or of a description prescribed by the Secretary of State.
- (12) In this section—
 - “council tax” includes any local tax to fund local authority expenditure;
 - “person engaged in the administration of housing benefit” means—
 - (a) an authority which administers housing benefit,
 - (b) a person authorised to exercise any function of such an authority relating to housing benefit, or
 - (c) a person providing to such an authority services relating to housing benefit;
 - “relevant information” means information relating to—
 - (a) any relevant social security benefit, or
 - (b) welfare services;
 - “relevant social security benefit” has the meaning given in section 121DA(7) of the Social Security Administration Act 1992;
 - “Scottish body” means—
 - (a) a local authority in Scotland,
 - (b) a person authorised to exercise any function of such an authority relating to welfare services,
 - (c) a person providing to a local authority in Scotland services relating to welfare services, or
 - (d) a person prescribed or of a description prescribed by the Secretary of State;
 - “welfare services” includes services which provide accommodation, support, assistance, advice or counselling to individuals with particular needs, and for these purposes “assistance” includes assistance by means of a grant or loan or the provision of goods or services;
 - “Welsh body” means—

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- (a) a local authority in Wales,
- (b) a person authorised to exercise any function of such an authority relating to welfare services,
- (c) a person providing to a local authority in Wales services relating to welfare services, or
- (d) a person prescribed or of a description prescribed by the Secretary of State.

Commencement Information

I49 S. 131 in force at 20.3.2012 for specified purposes by S.I. 2012/863, art. 2(1)(g)

I50 S. 131 in force at 8.5.2012 in so far as not already in force by S.I. 2012/863, art. 2(3)(e)

132 Unlawful disclosure of information supplied under section 131

- (1) A person to whom subsection (2) applies is guilty of an offence if the person discloses without lawful authority any information—
 - (a) which comes to the person by virtue of section 131(1), (3) or (4), and
 - (b) which relates to a particular person.
- (2) This subsection applies to—
 - (a) a person mentioned in section 131(11) (a) to (c);
 - (b) a person who provides qualifying welfare services (within the meaning of section 131);
 - (c) a person who is or has been a director, member of the committee of management, manager, secretary or other similar officer of a person mentioned in paragraph (a) or (b);
 - (d) a person who is or has been an employee of a person mentioned in paragraph (a) or (b).
- (3) A person guilty of an offence under this section is liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both, or
 - (b) on summary conviction, to imprisonment for a term not exceeding twelve months or a fine not exceeding the statutory maximum or both.
- (4) It is not an offence under this section—
 - (a) to disclose information in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it;
 - (b) to disclose information which has previously been disclosed to the public with lawful authority.
- (5) It is a defence for a person (“D”) charged with an offence under this section to prove that at the time of the alleged offence—
 - (a) D believed that D was making the disclosure in question with lawful authority and had no reasonable cause to believe otherwise, or
 - (b) D believed that the information in question had previously been disclosed to the public with lawful authority and had no reasonable cause to believe otherwise.

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- (6) A disclosure is made with lawful authority if it is so made for the purposes of section 123 of the Social Security Administration Act 1992.
- (7) This section does not affect that section.
- (8) Regulations under section 131(11) (g) may include provision for applying the provisions of this section to—
- (a) a person who is a qualifying person within the meaning of section 131 by virtue of the regulations, or
 - (b) a person associated with such a qualifying person by reason of the person's office or employment or otherwise.
- (9) In relation to an offence under this section committed in England and Wales before the commencement of section 154(1) of the Criminal Justice Act 2003 (increase in maximum term that may be imposed on summary conviction of offence triable either way) the reference in subsection (3) (b) to twelve months must be taken to be a reference to six months.

Modifications etc. (not altering text)

- C1** S. 132 applied (2.7.2012) by [The Social Security \(Information-sharing in relation to Welfare Services etc.\) Regulations 2012 \(S.I. 2012/1483\)](#), regs. 1, **10(2)**
- C2** S. 132 applied by [S.I. 2012/1483](#), **reg. 10(2)** (as substituted (1.4.2013) by [The Social Security \(Information-sharing in relation to Welfare Services etc.\) Amendment and Prescribed Bodies Regulations 2013 \(S.I. 2013/454\)](#), regs. 1(2), **3(10)**)

Commencement Information

- I51** S. 132(1)-(7)(9) in force at 8.5.2012 by [S.I. 2012/863](#), **art. 2(3)(f)**
- I52** S. 132(8) in force at 20.3.2012 by [S.I. 2012/863](#), **art. 2(1)(h)**

133 Sections 130 to 132: supplementary

(1 In sections 130 and 131—

“benefit” includes any allowance, payment, credit or loan;

“local authority” means—

- (a) a county or district council in England;
- (b) an eligible parish council (within the meaning of Chapter 1 of Part 1 of the Localism Act 2011);
- (c) a London borough council;
- (d) the Common Council of the City of London in its capacity as a local authority;
- (e) the Council of the Isles of Scilly;
- (f) a county or county borough council in Wales;
- (g) a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;

“prescribed” means prescribed in regulations made by the Secretary of State.

(2 Any power to make regulations under sections 130 and 131 includes power—

- (a) to make different provision for different purposes, cases and areas;

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- (b) to make such incidental, supplemental, consequential, transitional or saving provision as the Secretary of State thinks necessary or expedient.
- (3 Regulations under sections 130 and 131 must be made by statutory instrument.
- (4 A statutory instrument containing regulations under section 130 or 131 is subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Until the coming into force of provision for identifying eligible parish councils within the meaning of Chapter 1 of Part 1 of the Localism Act 2011, the reference in subsection (1) to an eligible parish council within the meaning of that Chapter is to be read as a reference to an eligible parish council within the meaning of Part 1 of the Local Government Act 2000.
- (6) The following are repealed—
- (a) sections 42 and 43 of the Welfare Reform Act 2007;
 - (b) section 69(2)(a) of that Act.

Commencement Information

I53 S. 133(1)-(4) in force at 20.3.2012 by S.I. 2012/863, art. 2(1)(i)

I54 S. 133(6) in force at 2.7.2012 by S.I. 2012/1651, art. 2 (with art. 3)

Information-sharing: miscellaneous

134 Information-sharing for social security or employment purposes etc

- (1) Section 72 of the Welfare Reform and Pensions Act 1999 (supply of information for certain purposes) is amended as follows.
- (2) In subsection (2)(b), after “designated“ there is inserted “(specifically or by description)”.
- (3) The following are repealed—
 - (a) in subsection (6), the words “(subject to subsection (6A))”;
 - (b) subsection (6A).
- (4) In Schedule 1 to the Education and Skills Act 2008, paragraph 74(3) and (4) is repealed.

Status:

Point in time view as at 01/10/2013. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation:

Welfare Reform Act 2012, Part 5 is up to date with all changes known to be in force on or before 31 August 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.