

# WELFARE REFORM AND WORK BILL

## EXPLANATORY NOTES

### What these notes do

These Explanatory Notes relate to the Welfare Reform and Work Bill as brought from the House of Commons on 28 October 2015 (HLBill 69).

- These Explanatory Notes have been prepared by the Department for Work and Pensions in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill. So where a provision of the Bill does not seem to require any explanation or comment, the Notes simply say in relation to it that the provision is self-explanatory.

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# Overview of the Bill

1 This Bill deals with:

- Creating statutory duties for the Government to report on:
  - Progress towards its commitment to achieving full employment.
  - Progress against meeting its target of 3 million new apprenticeships in this Parliament.
  - Progress on the Troubled Families Programme.
- Life chances
  - Amending the Child Poverty Act 2010 to become the Life Chances Act 2010.
  - Removing income related targets and replacing them with new measures to improve the life chances of children.
  - Creating a statutory duty on the Secretary of State to lay before Parliament an annual report containing data on children living in workless households in England and the educational attainment of children in England at the end of Key Stage 4.
  - Reforming and renaming the Social Mobility and Child Poverty Commission as the Social Mobility Commission ("the Commission").
  - Removal of most other duties and provisions in the Child Poverty Act 2010 including certain duties relating to the devolved administrations.
- Reducing the benefit cap to £20,000, except for £23,000 in Greater London.
- Freezing certain social security benefits and certain tax credit amounts for four tax years.
- Limitation in the amount of support provided by child tax credit for families who become responsible for a child born on or after 6 April 2017.
- Limiting the child element of universal credit to a maximum of two children and removing the distinction between the first and subsequent children in the rate of the child element.
- Removing the work-related activity component in employment and support allowance and the limited capability for work element in universal credit.
- Changes to conditionality for responsible carers in universal credit.
- Replacing current support for mortgage interest payments for benefit claimants with the offer of a recoverable interest-bearing loan.
- Changes to social housing rents.
- Allowing the government to recover certain administrative costs incurred in

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relation to the Motability scheme - and any such scheme that is equivalent in purpose.

## Policy background

- 2 The measures contained within this Bill implement policies outlined in the Conservative Party manifesto or which were announced in the Summer Budget on 8 July 2015. The measures in the Bill are intended to support the Government's commitments to increase employment; slow the growth of the welfare budget to help achieve a more sustainable welfare system; and support the policy of rewarding hard work while increasing fairness with working households.

## Statutory duties to report

- 3 The purpose of the statutory duties to report is to mandate regular updates from the Government on these key areas.

## Full Employment Reporting Obligation

- 4 This duty will require the Secretary of State to report annually on progress towards full employment, and the report will set out the interpretation of full employment for these purposes.

## Apprenticeships Reporting Obligation

- 5 The manifesto stated that new duties will require ministers to report annually on apprenticeships.

## Troubled Families Programme

- 6 The Troubled Families Programme aims to improve the lives of families with multiple, high cost problems across England.
- 7 The Government launched the programme in 2012. This worked with families where children were not attending school, young people were committing crime, families were involved in anti-social behaviour and adults were out of work.
- 8 In June 2013, the Government announced plans to expand the Troubled Families Programme for a further five years from April 2015 and to reach up to an additional 400,000 families across England. The operating model for this expanded programme is laid out in the Department for Communities and Local Government's [Financial Framework](#) for the Expanded Troubled Families Programme, published in February 2015 in preparation for the commencement of the programme in April 2015. This provides the basis on which funding is provided to local authorities for the financial year 2015-16.
- 9 Local authorities and their partners identify families eligible for support in their area by reference to the terms set out in this Financial Framework. To be eligible for support, each family must have at least two of the following six problems:
  - a. Parents or children involved in crime or anti-social behaviour.
  - b. Children who have not been attending school regularly.
  - c. Children who need help: children of all ages, who need help, are identified as in need or are subject to a Child Protection Plan.
  - d. Adults out of work or at risk of financial exclusion or young people at risk of

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worklessness.

- e. Families affected by domestic violence and abuse.
  - f. Parents or children with a range of health problems.
- 10 Families are then prioritised for inclusion on the basis of the following:
- a. They are families who are most likely to benefit from an integrated, whole family approach, and
  - b. They are families who are the highest cost to the public purse.
- 11 Where families are prioritised for support, local authorities are responsible for ensuring these families achieve significant and sustained progress against all problems identified at the point of engagement or move into continuous employment. Apart from school attendance and employment outcomes, all outcome measures are defined locally and set out in a locally agreed Troubled Families Outcomes Plan.
- 12 The Troubled Families Programme offers local authorities and their partners an opportunity to reform their services and radically improve family outcomes. To support these goals, the programme aims to report on the progress and cost benefit of the programme in each local authority area on a regular basis. This information will inform and drive service reform and investment decisions.
- 13 The duty for the Secretary of State for Communities and Local Government to provide information applies to the expanded Troubled Families Programme, which began in April 2015. The first report to Parliament will also reference the progress of the first Troubled Families Programme, and the work of local authorities who began delivery of the expanded programme early in 2014/15.

## Life chances measures

- 14 The Child Poverty Act 2010 placed a duty on the Secretary of State to meet a set of UK-wide targets by the end of the financial year 2020/21 (and every year thereafter) on four income-based measures of child poverty (relative, combined low income and material deprivation, absolute, and persistent).
- 15 The May 2015 Conservative Manifesto included a commitment to “work to eliminate child poverty and introduce better measures to drive real change in children’s lives, by recognising the root causes of poverty: entrenched worklessness, family breakdown, problem debt, and drug and alcohol dependency.”
- 16 In furtherance of this, the Government proposes to remove most of the legal duties and measures set out in the Child Poverty Act 2010 and to place a new duty on the Secretary of State to report annually on measures of children in workless households and the educational attainment of children in England at the end of Key Stage 4.

## Reform of the social mobility and child poverty Commission

- 17 The Social Mobility and Child Poverty Commission established in section 8 of the Child Poverty Act 2010 is to be reformed as the Social Mobility Commission.
- 18 The remit of the Commission will be to promote social mobility in England, to advise the Government at its request on how to improve social mobility in England and to publish a report setting out its view on progress made towards improving social mobility in the UK.
- 19 In addition the Commission will retain its remit to describe the measures taken by the relevant

Northern Ireland department in accordance with a Northern Ireland strategy. The commission will no longer have this role in relation to Scotland or Wales.

## Removal of other duties and provisions in the Child Poverty Act 2010

- 20 The specific parts of the Child Poverty Act 2010 that this Bill removes are:
- a. The four UK wide targets along with the definitions of the related measures:
    - i. Relative low income;
    - ii. Combined low income and material deprivation;
    - iii. Absolute low income; and
    - iv. Persistent poverty.
  - b. The duty upon the Secretary of State to meet these targets.
  - c. The continuing effects of the targets after the target year.
  - d. The provisions in sections 8-8C relating to the Social Mobility and Child Poverty Commission.
  - e. The duty on the Secretary of State to lay before Parliament a UK wide strategy.
  - f. The duty on Scottish Ministers to lay before the Scottish Parliament a Scottish strategy
  - g. The duty on the relevant Northern Ireland department to describe in its strategy the progress it intends to make to contribute to the meeting of the targets in para a).
  - h. The duty on the Secretary of State to lay before Parliament a statement in relation to the targets described in para a).
  - i. The duty placed on local authorities to co-operate to reduce child poverty in their local area including the preparation of a joint child poverty strategy.
  - j. The duty placed on local authorities to prepare and publish an assessment of the needs of children living in poverty in their area.
  - k. The role of Scottish and Welsh Ministers in appointing members of the Commission.

## Benefit cap

- 21 The benefit cap was introduced by sections 96 and 97 of the Welfare Reform Act 2012. It was introduced with the intention of increasing incentives to work, promoting fairness between the tax and welfare systems and helping to reduce the financial deficit. Sections 96 and 97 and section 150 of the Social Security Administration Act 1992 stipulate that the level of the cap should be determined with reference to estimated average weekly earnings and that the Secretary of State should review the level of the cap in each tax year to see whether its relationship with average earnings has changed. Following the review, the Secretary of State would be able to increase or reduce the level of the cap, if they decided it was appropriate to do so.
- 22 The new legislation would lower the benefit cap, so that the total amount of benefits to which a family on out of work benefits can be entitled to in a year will not exceed £20,000 for couples and lone parents, and £13,400 for single claimants, except in Greater London where the cap is set at £23,000 and £15,410 respectively. The legislation removes the link between the level of

the cap and average earnings and the requirement for the Secretary of State to review the cap each year, replacing it with the requirement that the Secretary of State must review the cap at least once in each Parliament and allowing the Secretary of State to review it more regularly at his discretion.

## Freeze of certain social security benefits and certain tax credit amounts for four tax years

- 23 It was announced in the Summer Budget that certain social security benefits, including child benefit, and certain elements of working tax credit and child tax credit would be frozen for four tax years starting from 2016-17.
- 24 The social security benefits and tax credits in question are:
- a. the main rates of income support, jobseeker's allowance, employment and support allowance, housing benefit and universal credit;
  - b. the work-related activity group component of Employment and Support Allowance, the work-related activity component of Housing Benefit and the limited capability for work element of Universal credit;
  - c. the individual element of Child Tax Credit payable to a child or qualifying young person who is not disabled or severely disabled;
  - d. the basic, 30 hour, second adult and lone parent elements of working tax credit; and
  - e. both elements of child benefit, that is, the "enhanced rate" for the eldest child and "any other case" for any other child.
- 25 Benefits and payments that are not part of the freeze include:
- a. pensioner benefits;
  - b. extra cost disability benefits such as attendance allowance, carer's allowance, disability living allowance and personal independence payments;
  - c. statutory payments such as statutory maternity pay and ordinary and additional statutory paternity pay;
  - d. the amount of the individual element payable in child tax credit where a child or qualifying young person is disabled or severely disabled; and
  - e. disabled and severely disabled elements of working tax credit.
- 26 Subject to Parliamentary approval, the freeze will take effect from April 2016.

## Changes to child tax credit

- 27 It was announced in the Summer Budget that, as part of the welfare budget savings, the maximum entitlement to child tax credit (CTC) would be restricted for families who become responsible for a child or children or qualifying young person(s) born on or after 6 April 2017. The changes will take effect from the 2017/18 tax year.
- 28 The changes being made are:
- a. Restricting the child element of CTC to two children per family :
    - i. The calculation of the maximum rate of CTC currently includes an individual element (£2,780 for the 2015/16 tax year) for each child or qualifying young

person for whom the claimant or claimants (if claiming as part of a couple) is responsible. This is currently referred to as the 'individual element' of CTC. Currently, the individual element is paid at a higher rate of £2,780 plus £3,140 or £4,415 where the child or qualifying young person is disabled or severely disabled respectively.

- ii. The changes will restrict the individual element of CTC to two children per family where specified conditions apply. A claimant will only be entitled to an individual element for a maximum of two children or qualifying young persons unless they are claiming for more than two children or qualifying young persons who were born before 6 April 2017. New births after that date will not qualify for the individual element.
  - iii. The changes will, however, ensure that any disabled or severely disabled child born or qualifying young person born on or after 6 April 2017 will qualify for the additional individual element regardless of the changes referred to in (ii) above. This is achieved by the creation of a new disability element, which through changes to secondary legislation is intended to reflect additional individual element currently payable for disabled and severely disabled children (for 2015-16, £3,140 and £4,415). This will be paid for all disabled children or qualifying young persons.
  - iv. The restriction to the availability of the child element will be on a "rolling basis" so that when the eldest child ceases to be entitled to CTC, if there is a third child born on or after 6 April 2017, that third child will become eligible for entitlement. This will roll on to subsequent children as elder children cease to be entitled to the payment.
- b. Removing the family element of CTC
- i. The calculation of the maximum rate of CTC currently includes a family element. The calculation includes one family element (£545 for the 2015/16 tax year) regardless of the number of children or qualifying young persons for whom the claimant or claimants are responsible, and whether the children or qualifying young persons are disabled or severely disabled.
  - ii. The changes will remove the family element from the calculation of the maximum entitlement to CTC for all families are only responsible for a first child or qualifying young person who is born on or after 6 April 2017. The changes will take effect from 6 April 2017.

## Changes to the child element of universal credit

- 29 These provisions implement a similar policy intent as the section above.
- 30 Currently, the 'child element' of the universal credit award is payable to claimants in respect of each child or qualifying young person for whom they are responsible. This includes a higher rate in respect of the first child or qualifying young person, and a lower rate in respect of the second and each subsequent child or qualifying young person.
- 31 The Bill seeks to limit the child element of universal credit to include amounts in respect of a maximum of two children or qualifying young person and to remove the distinction between the first and subsequent children in the rate of the child element. This limit will not apply to the additional amount that is paid in respect of a child or qualifying young persons who is disabled and the Bill allows this amount to be paid for each disabled child or young person for whom the claimant is responsible.

## Removing the work-related activity component in employment and support allowance and the limited capability for work element in universal credit

- 32 Employment and support allowance (ESA) is an income-replacement benefit for people of working age and is currently the main income-replacement benefit for those who cannot work because of a health condition or disability. Universal credit (UC) provides a new single system of means-tested support for people of working age who are both in or out of work. UC is gradually replacing income-related ESA as it is rolled out and becoming available in an increasing number of areas across Great Britain.
- 33 These clauses remove provision for certain additional payments - that is, the ESA work-related activity component and the UC limited capability for work element, included within ESA and UC - to be paid to claimants with limited capability for work.
- 34 The intention is that regulations will include provision for claimants who are already in receipt of the work-related activity component or limited capability for work element to continue to receive that component.

## Conditionality for responsible carers in universal credit

- 35 Conditionality is a core principle of universal credit that people who can, must look for work in return for benefit. Conditionality refers to the requirements for claimants to engage in activities which increase their chances of obtaining paid work (or more or better paid work).
- 36 Depending on their personal circumstances, a claimant may be subject to –
  - a. no work-related requirements;
  - b. a work-focused interview requirement only;
  - c. a work preparation requirement and work-focused interview requirement only; and
  - d. all work-related requirements.
- 37 Conditionality for responsible carers of children currently operates as follows:
  - a. responsible carers with a child under 1 are subject to no work-related requirements,
  - b. those with a child aged 1 or 2 are subject to work-focused interview requirements,
  - c. those with a child aged 3 and 4 are subject to work preparation requirements, and
  - d. those with a child aged 5 and over are subject to all work-related requirements unless their circumstances mean they fall into one of the other groups (for example because of a health condition).
- 38 The Bill seeks to change conditionality for responsible carers as follows:
  - a. those with a child aged 3 or 4 should be subject to all-work related requirements;
  - b. those with a child aged 2 should be subject to work-focused interview requirements and work preparation requirements; and
  - c. those with a child aged 1 should remain subject to work-focused interview requirements only.

## Loans for mortgage interest etc

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- 39 The Bill enables interest-bearing loans to be made to eligible owner-occupiers in respect of their liability to make owner-occupier payments in respect of their home, in particular mortgage interest payments. Those entitled to receive income support, income-based jobseeker's allowance, income-related employment and support allowance, state pension credit or universal credit will be eligible to receive a loan.
- 40 The Bill will replace the existing legislative scheme that allows owner-occupiers who are receiving an income-related benefit to claim additional help towards their mortgage payments. This help will be replaced by the opportunity to apply for a loan which will only be granted if individuals satisfy certain requirements, including that they have received financial advice. The Bill enables the Secretary of State to secure a charge on the individual's property as security for the loan. The Bill will also make provision about the transition from the current provision of support for mortgage to the new loans scheme, and allow the Government to manage the introduction of the new scheme in an appropriate way.
- 41 The provision of help with mortgage interest in the form of a loan rather than a benefit will ensure that the Government continues to mitigate the risk of repossession while providing better value for the tax payer.

## Expenses of paying sums in respect of vehicle hire etc

- 42 The Motability scheme leases and sells motor vehicles to disabled persons in receipt of a qualifying benefit. The Government facilitates this arrangement by diverting the benefit payments of participating claimants to Motability Operations Ltd, so they do not have to collect the money themselves. This is of direct benefit to Motability.
- 43 The cost of administering these payments varies annually, although it currently stands at under £1 million. Although Motability has indicated they are willing to pay these costs, the Government does not currently have the power to recover them. The Bill enables the Secretary of State to make regulations for doing so. Motability are supportive of this and have provided assurance that the expenses incurred will be absorbed by the scheme and not result in any changes to customer pricing.
- 44 Although Motability is currently the only organisation running a discounted vehicle scheme for disability living allowance/personal independence payment claimants, the clause is framed to apply to any scheme that is equivalent in purpose.

## Social housing rents

- 45 Social housing rents are set according to Government's rent policy. Rents set based on a formula are known as "social rent" (also known as "formula rent" or "target rent"), which was uprated annually at a rate of RPI + 0.5%. The policy includes a limit on annual rent increases of RPI + 0.5% + £2 where rents were below formula rent. In 2011, the Government introduced a new form of social housing, Affordable Rent, whose rent can be set at up to 80% of market rate, inclusive of service charges, and which is also subject to rent policy and the limit on annual rent increases. A new rent policy was published in May 2014 (with effect from April 2015) limiting annual rent increases to CPI + 1% for the next ten years. The underlying social or 'formula' rents are also uprated annually at a rate of CPI + 1%. In this Bill the Government intends to reduce rents in social housing in England by 1% a year for 4 years from April 2016. These reductions will reset the levels of rents in the social housing sector, which over recent years have become out of kilter with private rents. This will help protect taxpayers from the rising costs of subsidising rents through housing benefit, and protect tenants from rising housing costs. This will reduce average rents for households in the social housing sector by around 12% by 2020 compared to current forecasts.

## Legal background

### Full Employment Reporting Obligation

46 There is no legislation on the Full Employment measure.

### Apprenticeships Reporting Obligation

47 Existing legislation on apprenticeships is the Apprenticeships, Skills, Children and Learning Act 2009 (amended by Schedule 1 to the Deregulation Act 2015).

### Troubled Families Programme

48 There is no specific statutory basis for the Troubled Families Programme. Rather, grant funding to local authorities is provided in exercise of the power contained in section 31 of the Local Government Act 2003.

### Life chances

49 The relevant legislation is the Child Poverty Act 2010.

### Benefit cap

50 The relevant legislation, as indicated in the policy background section, is :

- a. sections 96 and 97 of the Welfare Reform Act 2012, and
- b. section 150 of the Social Security Administration Act 1992.

### Freeze of certain social security benefits and certain tax credit amounts for four tax years

51 The relevant legislation is:

- a. the Social Security Administration Act 1992, and
- b. the Tax Credits Act 2002.

52 Under section 150 of the Social Security Administration Act 1992, the Secretary of State for Work and Pensions is required to review the value of benefits and pensions in light of changes in prices. Where it appears to the Secretary of State that prices have increased relative to the value of those benefits the Secretary of State must make an up-rating order which increases certain benefits by at least the amount by which prices have increased and if the Secretary of State considers it appropriate, having regard to the national economic situation and any other matters the Secretary of State considers relevant, which also increases other benefits by such a percentage as he thinks fit. The Order is subject to Parliamentary approval. The Bill provides that, for the four tax years from 2016-17, each of the relevant sums listed in paragraph 1 of Schedule 1 will remain the same as it was in 2015-16.

53 The Bill will not become statute until it has completed its Parliamentary stages and has Royal Assent. We expect this to be within the current tax year, but until that time the current legislation applies. This means that the Secretary of State will review the value of benefits and pensions in light of the change in prices in the autumn, and make decisions on up-rating for 2016/17 at that stage in accordance with the legal obligations in force at the time.

54 Responsibility for up-rating child benefit was transferred from the Secretary of State to the Treasury under section 49(3) of the Tax Credits Act 2002. Therefore, the Treasury must review

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the Child Benefit rates for Great Britain in each tax year under section 150(1) of the Social Security Administration Act 1992 to determine whether or not they have retained their value in relation to the general level of prices in the United Kingdom. Section 150(2) of that Act provides that HM Treasury has a discretion, where it is considered appropriate, to up-rate the rates of child benefit taking into account the "national economic situation and any other matters" which "are considered relevant". Child benefit covers the whole of the UK.

- 55 Responsibility for tax credits lies with HM Treasury under sections 8, 9, 10, 11 and 13 of the Tax Credits Act 2002. The Treasury must review the rates in each tax year under section 41 of that Act to determine whether they have retained their value in relation to the general level of prices in the UK. Section 41 also obliges the Treasury to prepare a report of each review and include a statement of what each amount would be if it had fully retained its value, and to publish the report and lay a copy of it before each House of Parliament. Tax credits cover the whole of the United Kingdom.

## Changes to Child Tax Credit

- 56 Responsibility for Child Tax Credit (CTC) lies with HM Treasury under sections 8, 9, and 65(1) of the Tax Credits Act 2002.
- 57 Currently, section 8 sets out the entitlement to CTC and describes what a child and qualified young person is. Section 9 sets out the maximum rate of CTC and provides that the prescribed manner of determination of the maximum rate must include provision for
- a. an element which is to be included in the case of all persons entitled to CTC (the 'family element'); and
  - b. an element in respect of each child or qualifying young person for whom the person or persons entitled to CTC is or are responsible (the 'individual element').
- 58 Section 9(5) makes provision for the prescribed manner of determination and provides that the individual element must be increased in the case of a child or qualifying young person who is disabled and further increased in the case of a child or qualifying young person who is severely disabled.

## Changes to the child element of Universal credit

- 59 Relevant legislation for the child element in universal credit is:
- a. section 10 of the Welfare Reform Act 2012, and
  - b. regulations 24 and 36 of the Universal Credit Regulations 2013

## Removing the work-related activity component in employment and support allowance and the limited capability for work element in universal credit

- 60 The existing legislation which makes provision for the work-related activity component in employment and support allowance (ESA) and the limited capability for work element in universal credit (UC) is:
- a. for ESA, Part 1 of the Welfare Reform Act 2007; and
  - b. for UC, Part 1 of the Welfare Reform Act 2012

## Conditionality for responsible carers in universal credit

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61 The relevant conditionality requirements are set out in the following legislation:

- a. Sections 19, 20, 21 and 22 of the Welfare Reform Act 2012; and
- b. Regulation 91 of the Universal Credit Regulations 2013

## Loans for mortgage interest

62 The key legislation for support for mortgage interest is:

- a. Income Support – Sections 124 and 135(1) of the Social Security Contributions and Benefits Act 1992 (SSCB Act) and regulations 17(e) and 18(1)(f) of and Schedule 3 to the Income Support (General) Regulations 1987;
- b. Jobseeker’s Allowance – Sections 1 and 4(3), (3A) and (5) Jobseekers Act 1995, and regulations 83 and 84 of, and schedule 2 to, the Jobseeker’s Allowance Regulations 1996;
- c. Employment and Support Allowance – Sections 1 and 4(1) of and (2) of the Welfare Reform Act 2007 and regulations 67(1)(c) and 68(1)(d) and Schedule 6 to the Employment and Support Allowance Regulations 2008;
- d. State Pension Credit – Sections 1 and 2(2) and (3) of the State Pension Credit Act 2002 and regulation 6(6)(c) and schedule 2 to the State Pension Credit Regulations 2002 ;
- e. Universal credit - Sections 8 and 11 of the Welfare Reform Act 2012 and regulations 23(1) and 25 of and Schedules 1 to 3 and 5 to the Universal Credit Regulations 2013; and
- f. Payments direct to mortgage lenders - Section 15A of the Social Security Administration Act 1992, regulation 34A of the Social Security (Claims and Payments) Regulations 1987 and regulation 59 of the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013.

## Expenses of paying sums in respect of vehicle hire etc

63 The relevant legislation which allows the payment of the benefits to Motability is:

- a. section 5 of the Social Security Administration Act 1992;
- b. regulations 44 – 46 of the Social Security (Claims and Payments) Regulations 1987; and
- c. regulations 62-64 of the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013.

## Social housing rents

64 The legislation relating to existing housing and rent policy for private registered providers and local authorities, including changes to end housing subsidy and enable self-financing of local housing authorities, is set out in a combination of primary and subordinate legislation. The current provisions are:

- a. Housing Act 1985;
- b. Local Government and Housing Act 1989;
- c. Housing and Regeneration Act 2008;

- d. Localism Act 2011;
- e. secondary legislation made under the above Acts.

## Territorial extent and application

- 65 The following provisions apply across the whole of the UK:
- a. The duty to report annually on progress towards the Government's objective of full employment;
  - b. Freeze of tax credits and Child Benefit;
  - c. Changes to Child Tax Credit;
- 66 The following provisions apply to England, Wales and Scotland (Northern Ireland is responsible for its own social security system):
- a. Changes to benefit cap;
  - b. Freeze of certain social security benefits;
  - c. Changes to child element of universal credit;
  - d. the removal of the work-related activity component in employment and support allowance and the limited capability for work element in universal credit;
  - e. conditionality for responsible carers in universal credit;
  - f. loans for mortgage interest;
  - g. expenses of paying sums in respect of vehicle hire etc
- 67 The following provisions apply to England only:
- a. Apprenticeships duty (extends to England and Wales, but only applies in England);
  - b. The duty to report annually on the progress of the Troubled Families Programme;
    - i. The delivery of similar programmes in Wales, Scotland and Northern Ireland is a devolved matter.
  - c. changes to social housing rents.
- 68 For the life chances provisions:
- a. The duty to report annually on measures of children living in workless households and the educational attainment of children will apply to England only.
  - b. There will no longer be a duty for either a UK strategy or a Scottish strategy. The relevant Northern Ireland department will retain a duty to produce a strategy to ensure, that as far as possible, children Northern Ireland do not experience socio-economic disadvantage.
  - c. The relevant Northern Ireland department will no longer have a duty to describe in its strategy the progress it intends to make to contribute to the meeting of the targets of relative low income, combined low income and material deprivation, absolute low income and persistent poverty which this Bill removes.
  - d. The duty on the renamed Social Mobility Commission in relation to promoting social mobility and advising Ministers, if requested, on how to improve social mobility,

applies to England only.

- e. The duty on the Commission to report on progress made towards improving social mobility applies to the UK.
- f. The duty on the Commission in relation to reporting annually on the progress made to ensure, that as far as possible, children do not experience socio-economic disadvantage, only applies to Northern Ireland
- g. The power of a Minister of the Crown to direct the Commission to carry out any other activity relating to improving social mobility applies to England and Northern Ireland only.
- h. There is a convention that Westminster will not normally legislate with regard to devolved matters without the consent of the devolved legislature concerned. Consent has been sought from the Scottish Parliament for the removal of duties on Scottish Ministers in relation to producing a strategy and consent has been sought from the Scottish Parliament and National Assembly for Wales in relation to certain changes to the Commission. The Bill does not contain any other provision which gives rise to the need for a legislative consent motion.

# Commentary on provisions of Bill

## Clause 1: Full employment: reporting obligation

- 69 The clause will place a new duty on the Secretary of State to produce an annual report on the progress towards full employment during this Parliament. It will hold Government to account on its commitments towards full employment. The first annual report will set out the interpretation of full employment, which will allow Government to take time to consider the measures which best reflect the labour market.
- 70 *Subsection (2)* provides that this section is repealed on the date of the first dissolution of Parliament after this section comes into force.

## Clause 2: Apprenticeships reporting obligation

- 71 The Government has set a target for three million apprenticeships to be started in England during this Parliament. This clause would require the Secretary of State to report on progress made towards that target. The clause specifies five reporting periods to cover the entire period beginning with 1 May 2015 and ending with 31 March 2020. Information must be published within nine months of the end of each reporting period.
- 72 The Secretary of State must lay a report in Parliament for each reporting period. The reports will include or reference statistical information about the progress made in the reporting period towards meeting the target, together with any other information about apprenticeships that the Secretary of State considers appropriate. This might include information about policies introduced to support the growth of apprenticeships.
- 73 As the target relates specifically to this Parliament, the clause contains a provision for automatic repeal a year after the final reporting period, allowing time for the final report to be published.
- 74 “Apprenticeship” is defined in the clause as an approved English apprenticeship and certain other statutory apprenticeships. An approved English apprenticeship is an arrangement which takes place under an approved English apprenticeship agreement between employer and apprentice or is an alternative English apprenticeship. The approved English apprenticeship agreement is a combination of paid employment and training towards achievement of a recognised standard. The other statutory apprenticeships relate to apprenticeship frameworks which have not yet been withdrawn by the Secretary of State and are saved by article 13 of and the Schedule to the Deregulation Act 2015 (Commencement No. 1 and Transitional and Saving Provisions) Order 2015 (S.I. 2015/994).

## Clause 3: Support for troubled families: reporting obligation

- 75 This clause requires the Secretary of State to prepare a report on progress made by families who receive support as part of the Troubled Families Programme. This report will be based on information from the programme's national evaluation and the payment by results achieved by local authorities.
- 76 Currently, to be eligible for support as part of the programme, families must have at least two of the six problems laid out in the programme's Financial Framework and have been prioritised for inclusion by the local authority on the basis that they are families who are likely to benefit from an integrated, whole family approach; and are the families who result in the highest costs to the public purse. Local authorities will typically work in partnership with a range of local public service providers, including those in the voluntary and community sector, to offer the necessary services to their local troubled families. This support aims to achieve significant and sustained progress across each family, compared with all the family members'

problems at the point of engagement with the programme; and to move adults in these families off benefits and into continuous employment.

- 77 The progress report is to be prepared by the Secretary of State before the end of each financial year and laid before Parliament.
- 78 The operating terms of the Troubled Families Programme may change over the lifetime of the programme. To accommodate this, the Secretary of State is required to issue a notice specifying the measures which the Secretary of State will report against before the start of each financial year. This notice will be provided to local authorities to facilitate the required data collection.

#### Clause 4: Workless households and educational attainment reporting obligations

- 79 This clause places a duty on the Government to report annually against measures of worklessness and educational attainment in England. The detail of these measures and related definitions will be taken directly from relevant official statistics so far as practicable, as defined by section 6(1) of the Statistics and Registration Service Act 2007.
- 80 The clause requires the Secretary of State to lay a report before Parliament annually setting out data on the measures of worklessness and education.
- 81 The clause requires the worklessness measures to be based, so far as practicable, on data published in relevant official statistics, such as the Office for National Statistics release currently titled "Working and Workless households". The report will identify the proportion of children living in workless households (i.e. where no adult is in employment), and the proportion of children in long-term workless households (i.e. where no adult has been in employment for at least the last 12 months)
- 82 The clause also requires the educational attainment measures to be based, so far as practicable, on data published in relevant official statistics, such as the Key Stage 4 attainment data published by the Department for Education, in the Statistical First Release currently titled "GCSE and equivalent attainment by pupil characteristics".

#### Clause 5: Social Mobility Commission

- 83 This clause sets out how the Social Mobility and Child Poverty Commission will be reformed to be called the Social Mobility Commission and how some of its functions will change.
- 84 The Commission will have a duty to promote social mobility in England and will provide an independent scrutiny and advocacy role on social mobility in England.
- 85 It will have a duty to report its views on progress in improving social mobility in the UK and publish this report annually.
- 86 The Commission will continue to report on the measures taken by the relevant Northern Ireland department in relation to its strategy to ensure that as far as possible children in Northern Ireland do not experience socio-economic disadvantage.
- 87 It will no longer have a duty to report on the measures taken by Scottish Ministers in relation to their strategy to ensure that as far as possible children in Scotland do not experience socio-economic disadvantage. Nor will it continue to report on the measures taken by Welsh Ministers in accordance with the Welsh strategy.
- 88 A Minister of the Crown may direct the Commission to carry out any other activity relating to improving social mobility in England and Northern Ireland.
- 89 The members of the Commission are to be:
  - a. A chair appointed by a Minister of the Crown;

- b. after the appointed day for Northern Ireland, a member appointed by the relevant Northern Ireland department;
  - c. any other members appointed by a Minister of the Crown.
  - d. a Minister of the Crown may appoint one of the members as the deputy chair.
- 90 A Minister of the Crown may, if the Commission so requests, carry out or commission research for the purpose of the carrying out of the Commissions functions.

### Clause 6: Other amendments to Child Poverty Act 2010

- 91 This clause amends the Child Poverty Act 2010 to remove the measures, targets, duties and most other provisions, including:
- a. the statutory targets and measures (sections 1-7, 15, 17 and schedule 2);
  - b. the Social Mobility and Child Poverty Commission (sections 8 to 8C);
  - c. the duties placed on the Secretary of State to consult on, review, lay and publish a triennial child poverty strategy (sections 9 and 10);
  - d. the duty placed on Scottish Ministers to consult on, review, lay and publish a triennial child poverty strategy (section 11 and section 13 as it relates to Scottish Ministers and the Scottish strategy);
  - e. the duties placed on local authorities (sections 19 to 25).
- 92 This clause makes additional amendments to section 12 of the Child Poverty Act in order to remove references to the targets (which are repealed by this Bill) and to maintain as now the period during which the relevant Northern Ireland department is required to produce its strategy.
- 93 The clause replaces references to “the target year” with specific dates as a consequence of targets being removed by this Bill.
- 94 The clause retains definitions of child, parent and parental responsibility in respect of the ongoing duties of the relevant Northern Ireland department to publish its strategy.
- 95 The clause updates the ‘general interpretation’ section of the Child Poverty Act to explain relevant terms.

### Clause 7: Benefit cap

- 96 The clause amends section 96 of the Welfare Reform Act 2012 which provides for the amount of welfare benefits to which a claimant or a couple can be entitled to be capped by reference to a relevant amount in a prescribed manner.
- 97 *Subsection (2)* amends subsection (5) of section 96 of the Welfare Reform Act 2012 and inserts new subsections (5A) and (5B). Subsection (5) allows for regulations to determine the benefit cap's "relevant amount", which will be the weekly level of the cap that will be applied for housing benefit and monthly level that will be applied for universal credit. This determination is to be made by reference to the annual limit of entitlement for a single person or a couple and lone parent.
- 98 New subsection (5A) provides that the annual limit for the benefit cap should be £20,000 or £13,400 except in Greater London where it is set at £23,000 or £15,410.
- 99 New subsection (5B) gives the Secretary of State a new power to make regulations that specify which limit applies to couples or single people of a prescribed description. The Secretary of

State intends to use this power to prescribe that the lower amounts will apply to single people and the higher amounts will apply to couples and lone parents. The Secretary of State is also granted the powers to allow him to make regulations that define when a person is or is not resident in Greater London and that provide that the monthly or weekly figures derived from the annual limit can be rounded where appropriate.

100 *Subsection (3)* omits the existing section 96(6) to (8) of the Welfare Reform Act which require the setting of the "relevant amount" (the level of the cap) with reference to estimated average earnings.

101 *Subsection (4)* amends section (10) of section 96 of the Welfare Reform Act 2012, and defines "welfare benefits" for the purposes of the benefit cap. The definition is the same as those currently included in both the Benefit Cap (Housing Benefit) Regulations 2012 and the Universal Credit Regulations 2013, which define "welfare benefits" as:

- a. Bereavement Allowance
- b. Carer's Allowance
- c. Child Benefit
- d. Child Tax Credit
- e. Employment and Support Allowance
- f. Guardian's Allowance
- g. Housing Benefit
- h. Incapacity Benefit
- i. Income Support
- j. Jobseeker's Allowance
- k. Maternity Allowance
- l. Severe Disablement Allowance
- m. Universal Credit
- n. Widowed Mother's Allowance
- o. Widowed Parent's Allowance
- p. Widow's Pension

102 *Subsection (5)* repeals section 96(11) which refers to regulations under section 96(10) as amended no longer contains provisions about regulations.

103 *Subsection (6)* omits the existing section 97(3) of the Welfare Reform Act 2012 which required the first regulations laid under the powers of section 96 to be subject to the affirmative regulations procedure. The first regulations were laid in April 2013 and therefore this subsection is no longer needed.

104 *Subsection (7)* makes a consequential repeal of paragraph 52 of Schedule 12 to the Pensions Act 2014. Paragraph 52 amends section 96(11).

105 *Subsections (8) and (9)* relate to the commencement of the other provisions in the clause. The powers state that regulations in relation to commencement may make such transitional provision or savings as the Secretary of State considers necessary and may provide that the

amendments made by subsections (2) to (5) and (7) do not have effect until a time specified in a notice issued by the Secretary of State in relation to a particular description of person and may set out the form such a notice should take.

106 *Subsection (10)* provides that any regulations under subsection (8) do not require consultation with Local Authority Associations under section 176 of the Social Security Administration Act 1992.

107 *Subsections (11) and (12)* provide that any regulations made under this section must be done so through statutory instrument which would be subject to the negative procedure.

## Clause 8: Review of benefit cap

108 The clause inserts a new section 96A, Benefit cap: review, into the Welfare Reform Act 2012.

109 The new section 96A(1) commits the Secretary of State to at least one review of the benefit cap in each Parliament to decide whether it is appropriate to increase or decrease one or more of the annual limits specified in subsection 96(5A.)

110 Notwithstanding the requirement in the new section 96A(1), the new section 96A(2) allows the Secretary of State at any other time to review any or all of the annual limits in section 96(5A) to decide whether it is appropriate to increase or decrease one or more of the annual limits.

111 The new section 96A(3) provides that when reviewing the cap the Secretary of State must take into account the national economic situation, as well as any other factors which the Secretary of State considers relevant.

112 The new section 96A(4) allows the Secretary of State, if they think it is appropriate after carrying out a review of the annual limits, to increase or decrease one or more of the annual limits by regulations. Subsection (5) of the clause amends section 97 to make provision about the Parliamentary procedure that applies.

113 The new section 96A(5) provides that any amendments to the annual limit can come into force on different days for different areas, cases or purposes.

114 The new sections 96A(6) and (7) provides similar powers to subsections (8) and (9) of Clause 7 and provide that the Secretary of State may: make such transitional provision or savings as he considers necessary; provide that the change to the annual limit does not have effect in a particular case unless a notice has been issued by the Secretary of State; and may set out the form any such notice should take. New section 96A(8) provides that any regulations do not require consultation with Local Authority Associations under section 176 of the Social Security Administration Act 1992.

115 The new section 96A(9) provides for the circumstances of an early Parliamentary election taking place in accordance with section 2 of the Fixed-term Parliament Act 2011. In such circumstances the duty to review the annual limits provided by the new section 96A(1) is to be disregarded.

116 *Subsections (2), (3), (4) and (6)* make consequential amendments to section 97 of the Act.

117 *Subsection (5)* inserts a new subsection (3A) into section 97 that provides that any regulations which amend an "annual limit" in section 96(5A) of the Act, following a review pursuant to inserted section 96A(1) and (2), will be subject to the negative Parliamentary procedure unless they propose a reduction to any one of the annual limits, in which case they will be subject to the affirmative Parliamentary procedure.

118 *Subsection (7) and (8)* omit section (5) of section 97 of the Act and section (7A) of section 150 of the Social Security Administration Act 1992 and so remove the obligation on the Secretary of

State to review each year the level of the benefit against the level of average earnings.

### Clause 9: Freeze of certain social security benefits for four tax years

- 119 This clause provides for a freeze of certain social security benefits for four tax years and introduces Schedule 1, paragraph 1 of which defines the relevant sums.
- 120 *Subsection (1)* provides that for each of the tax years ending with 5 April 2017, 5 April 2018, 5 April 2019 and 5 April 2020 ("the four tax years"), each of the relevant sums is to remain the same as it was in the tax year ending 5 April 2016.
- 121 *Subsection (2)* provides that for each of the four tax years the rates of child benefit are to remain the same as they were in the tax year ending 5 April 2016
- 122 Under section 150(1) of the Social Security Administration Act 1992, the Secretary of State for Work and Pensions must in each tax year review the sums of benefits and pensions in order to determine whether they have retained their value in relation to the general level of prices obtaining in Great Britain estimated in such manner as the Secretary of State thinks fit. *Subsection (3)* provides that the review in each of the four tax years preceding the tax years in which the benefits are to be frozen need not cover any of the relevant sums or the rates of child benefit.
- 123 Under section 150(2) where it appears to the Secretary of State that prices have increased relative to the value of benefits and pensions the Secretary of State must make an up-rating order. *Subsection (4)* provides that a draft up-rating order made in each of the four tax years preceding the tax years in which the benefits are to be frozen (e.g. an up-rating order that applies to the four tax years in which benefits are to be frozen) need not cover any of the relevant sums or the rates of child benefit.
- 124 *Subsection (5)* requires, in each of the four tax years preceding the tax years in which the benefits are to be frozen, the Secretary of State to lay before Parliament a copy of a report by the Government Actuary on the likely effect of the freeze of each of the relevant sums on the National Insurance Fund in the following tax year (i.e. the years of the freeze), so far as the freeze of the relevant sum relates to any sum payable out of the Fund.

### Clause 10: Freeze of certain tax credit amounts for four tax years

- 125 This clause introduces a freeze on certain relevant amounts, that is, of working tax credit and child tax credit for the tax years ending 5 April 2017, 5 April 2018, 5 April 2019 and 5 April 2020 explaining that the relevant amounts are to remain the same as they were in the tax year ending 5 April 2016. Relevant amounts is defined in paragraph 2 of Schedule 1 (see *subsection (3)*).
- 126 *Subsection (2)* specifies that the review under section 41 of the Tax Credits Act 2002 that is undertaken in each of the four tax years preceding the years of the freeze, which shows whether certain benefits have retained their value in each tax year need not cover any of the relevant amounts.

### Clause 11: Changes to child tax credit

- 127 The clause makes amendments to section 9 of the Tax Credits Act 2002 which sets out the maximum rate at which a person or persons may be entitled to child tax credit (CTC).
- 128 *Subsection (2)(a)* amends section 9(2)(a) of the Tax Credits Act 2002 by substituting wording so that it provides for an element (defined in section 9(3) as the family element), which must be included in the prescribed manner of determination of the maximum rate of CTC, in respect of every person or persons entitled to CTC who is or are responsible for a child or qualifying young person born prior to 6 April 2017.

- 129 *Subsection (2)(b)* inserts a new paragraph (c) into subsection (2) of section 9 of the Tax Credits Act 2002 to provide for a new element which must be included in the prescribed manner of determination of the maximum rate of CTC in the case of a child or qualifying young person who is disabled or severely disabled. This enables the support that is currently provided through the higher amount of the individual element of CTC payable in respect of a disabled or severely disabled child to be made available from 6 April 2017 through the new disability element. The disability element will be payable in respect of all relevant children or qualifying young persons regardless of their date of birth and whether they are the first, second, third or subsequent child or qualifying young persons in the family.
- 130 *Subsection (5)* substitutes a new paragraph (c) into section 9(5) of the Tax Credits Act 2002 so as to provide that the prescribed manner of determination of the maximum rate of CTC may include provision for the disability element of CTC to vary according to whether the child or qualifying young person is disabled or severely disabled.
- 131 *Subsection (3)* inserts new wording in subsection (3) of section 9 of the Tax Credits Act 2002 to define the element provided for in new section 9(2)(c) as the disability element of CTC.
- 132 *Subsection (4)* inserts two new subsections into section 9 of the Tax Credits Act 2002.
- 133 New subsection (3A) of section 9 of the Tax Credits Act 2002 provides for new subsection (3B) to apply in a case of a person or persons entitled to CTC who is or are responsible for a child or qualifying young person born on or after 6 April 2017.
- 134 New subsection (3B) of section 9 of the Tax Credits Act 2002 provides that the prescribed manner of determination in relation to the person or persons to whom new subsection (3A) applies must not include an individual element of CTC in respect of a child or qualifying young person born on or after 6 April 2017 unless they are claiming the individual element for no more than one other child or a prescribed exception applies. Section 67 of the Tax Credits Act 2002 provides that for the purposes of Part 1 of the Tax Credits Act 2002, "prescribed" means prescribed by regulations. An exception will apply, for example, to protect instances of multiple births where a family would otherwise have exceeded two children in a family.

## Clause 12: Changes to child element of universal credit

- 135 This clause amends section 10 of the Welfare Reform Act 2012 in relation to the calculation of an award of Universal Credit to provide that the child element will only include amounts in respect of a maximum of two children or qualifying young persons for whom a claimant is responsible.
- 136 The limit of two will not apply to the additional amount that is paid in respect of a child or qualifying young person who is disabled and the clause is amended to allow this amount to be paid for each disabled child or young person for whom the claimant is responsible.
- 137 The clause makes it clear that there is provision to allow the Secretary of State to make regulations to allow for an amount to be included in the child element for a child or qualifying young person in certain circumstances where the number of children or qualifying young persons exceeds two, for example in the case of a multiple birth prior to which there were less than two children or qualifying young persons in the household.
- 138 The clause amends the Universal Credit Regulations 2013 to remove the distinction between the first and subsequent children in the rate of the child element. This means there will be a single rate for the child element instead of the current situation where there is a higher rate payable for the first child which corresponds with the family element in Child Tax Credit.
- 139 The clause also contains provision to make regulations providing for transitional provisions. For example, it is intended that savings will be made so that existing claimants who are already

responsible for more than two children or qualifying young persons at the point the clause comes into force will not see a reduction in the child element of their award and they will continue to receive a higher rate of child element for their first child or qualifying young person. However, such claimants will not be entitled to any further amounts for new children or qualifying young persons who enter the household after the implementation date where this would cause the limit of two to be exceeded, and the higher rate will cease to be payable once the first child or qualifying young person leaves the household.

### Clause 13: Employment and support allowance: work-related activity component

- 140 The clause amends Part 1 of the Welfare Reform Act 2007 which introduced Employment and Support (ESA).
- 141 *Subsection (2)* amends section 2 of the Welfare Reform Act 2007 to remove provision for payment of a work-related activity component in relation to contributory ESA.
- 142 *Subsection (3)* amends section 4 of the Act to remove provision for payment of a work-related activity component in relation to income-related ESA.
- 143 *Subsection (4)* provides the Secretary of State with the power to make regulations for transitional and savings purposes in connection with *subsection (2) and (3)*. The intention is that these regulations will include provision for claimants who are already in receipt of the work-related activity component in ESA to continue to receive that component.
- 144 *Subsection (5)* clarifies that regulations under *subsection (4)* may provide for the work-related activity component to be payable to existing incapacity benefit, severe disablement allowance and income support claimants who have not yet had their awards converted to ESA and are placed in the limited capability for work group following conversion.
- 145 *Subsections (6) and (7)* provide that the regulations under *subsection (4)* are made by statutory instrument subject to the negative procedure.

### Clause 14: Universal credit: limited capability for work element

- 146 The clause amends section 12(2) of the Welfare Reform Act 2012 which provides for an award of universal credit to include an amount in respect of such particular needs or circumstances as may be prescribed in regulations.
- 147 It removes the fact that a claimant has limited capability for work as a need or circumstance that may be prescribed.
- 148 The intention is that regulations under existing provisions of the Welfare Reform Act 2012 will remove provision for the limited capability for work element but that this will not apply to claimants who are already in receipt of that element.

### Clause 15: Universal Credit: work-related requirements

- 149 The clause changes the conditionality for responsible carers in Universal credit to the following effect:
- a. those with a child aged 3 or 4 should be subject to all-work related requirements;
  - b. those with a child aged 2 should be subject to work-focused interview requirements and work preparation requirements;
  - c. those with a child aged 1 should remain subject to work-focused interview requirements only.

### Clause 16: Loans for mortgage interest etc

*These Explanatory Notes relate to the Welfare Reform and Work Bill as brought from the House of Commons on 28 October 2015 (HLBill 69)*

150 The clause enables the Secretary of State to replace existing provisions that allow owner-occupiers who are receiving an income-related benefit to claim additional help towards their owner-occupier payments so that help is instead available by way of a loan. The term “owner-occupier payments” will be defined in regulations and will make provision about mortgage interest payments and payments under alternative finance arrangements. The clause enables the Secretary of State to specify in regulations: conditions that will govern eligibility to receipt of a loan (including that a claimant must be entitled to receive jobseeker's allowance, income support, employment and support allowance, state pension credit or universal credit); provision about the liabilities in respect of which a loan can be made; the method for calculating the amount of loan which can be made; and that the loan will be secured by a charge over land.

#### Clause 17: Section 16: Further provision

151 The clause enables the Secretary of State to specify in regulations the circumstances in which a person is to be treated as liable or not liable to make owner-occupier payments and the circumstances in which a person is to be treated as occupying or not occupying their home. The clause also enables the Secretary of State to provide for the following in regulations: how a person can apply for a loan; the requirements which they must satisfy before a loan can be made (such as receiving financial advice); provision about entering into an agreement with the person receiving a loan; when and how a loan must be repaid; other terms upon which a loan is made; that interest will be charged on the loan and the rate; that administration charges will be charged; and provision enabling substituted security be taken in cases where a person moves to another property.

152 The clause also provides regulation making provisions to require that loans are paid direct to the claimant's mortgage lender and sets out what constitutes a “qualifying lender” for these purposes. This provision mirrors the existing legislative provisions in section 15A of the Social Security Administration Act 1992 which will be repealed under clause 18, and will help to ensure the continued forbearance of lenders.

#### Clause 18: Consequential amendments

153 This clause repeals certain provisions relating to the payment of support for mortgage interest direct to lenders out of a claimant's entitlement to a relevant benefit. Payment of support for mortgage interest loans will instead be paid direct to lenders by virtue of the provisions at clause 17(4) of the Bill.

154 This clause also amends section 11(3)(a) of the Welfare Reform Act 2012 and section 3A of the State Pension Credit Act 2002, which are about the meaning of “payments in respect of accommodation”, by omitting the reference to mortgage payments. This is because mortgage payments will no longer be paid as part of a claimant's award of universal credit or pension credit, and will instead be offered as a loan under clause 16(1) of the Bill.

#### Clause 19: Transitional provision

155 This clause makes provision about the transition from the current provision of support for mortgage interest to the new scheme for providing support by way of loans. This clause will ensure that the Government can manage the introduction of support for mortgage interest loans as it sees fit, in particular the migration of those who currently get support for mortgage interest as a benefit to the new loan system.

#### Clause 20: Expenses of paying sums in respect of vehicle hire etc

156 This clause allows the Secretary of State to recover the administrative costs of making certain payments from the organisation to which the payments are made. Specifically, it relates to payments made to any organisation that leases or sells motor vehicles to disabled persons. It

only applies to payments made on behalf of those in receipt of the higher rate mobility component of Disability Living Allowance (“DLA”) or the enhanced rate mobility component of Personal Independence Payment (“PIP”).

157 This clause works by modifying the Social Security Administration Act 1992 and takes effect through secondary legislation. The costs can be defrayed either by requiring the organisation to pay a fee or by deducting and retaining part of the benefit payment.

### Clause 21: Reduction in social housing rents

158 Clause 21 requires that in relation to each relevant year registered providers of social housing must reduce the rents payable by their individual tenants by at least 1%. Subsection 21(1) provides that reduction is calculated by reference to the amount of rent that was payable by the tenant in respect of the preceding 12 months.

159 Subsection (2) clarifies that if a tenancy comes to an end after part of a relevant year or, if the rent reduction requirement no longer applies to the tenancy, then there will be a proportionate reduction in the maximum amount of rent payable.

160 Subsection (3) makes special provision for determining the amount of rent payable in respect of the 12 months preceding the first relevant year. Its effect is that, for the purposes of calculating rent payable during the rent reduction period, social rents are essentially frozen from 8 July 2015 (the date of the summer budget when the rent reduction measures were announced), or another day if the Secretary of State for Communities and Local Government consents to use of a different reference date (“the permitted review day”), and are afterwards reduced. That might be the case where, for example, a private registered provider’s normal annual rent review date is later in the year. The Secretary of State’s consent can be given individually or be in the form of a general consent (subsection (4)).

161 Subsection (5) makes clear that for the purposes of calculating the rent payable in the first relevant year a tenancy existing on 8 July 2015 is to be treated as having been in place for at least 12 months.

162 Subsection (6) sets out what is a ‘relevant year’. It makes clear that there are four relevant years commencing from 1st April 2016. Generally, this is a year beginning on 1st April, however, where a private registered provider's rent year for the majority of its tenancies commences on another date then the rent reductions may be applied from that date instead.

163 Subsection (7) clarifies that a private registered provider is not obliged to use that alternative relevant year provision, but may also use a year commencing 1st April as its relevant year.

### Clause 22: Exceptions

164 The clause makes provision for exceptions to the rent reduction requirement set out in Clause 21. Subsection (1) provides that the rent reduction requirements do not apply to low cost home ownership or shared ownership.

165 Subsection (3) provides that the rent reduction requirement also does not apply when the property is subject to a mortgage or other security arrangement and the mortgagee or other security holder is in possession of the property, a receiver is appointed to receive the rents and profits of the property, or a person is appointed pursuant to the mortgage or other security arrangement to administer or sell the property for the purpose of enforcing the security.

166 Subsection (4) provides that if the property is sold for the purpose of enforcing a security then clause 21 ceases to apply from that time.

167 The clause also gives the Secretary of State power to make regulations to disapply the requirement in other cases.

## Clause 23: Exemption of a registered provider of social housing

- 168 Clause 23(1) provides that the Regulator of Social Housing in England may, by direction, exempt a private registered provider from the rent reduction requirement. The Regulator may only issue a direction in circumstances where the Regulator considers that compliance with Clause 21 would jeopardise the financial viability of the provider or, if the circumstances of the private registered provider satisfy requirements prescribed in regulations made by the Secretary of State under subsection (5).
- 169 Any direction issued by the Regulator has to have the consent of the Secretary of State.
- 170 Subsection (6) enables the Regulator to publish a document about measures that it considers could be taken by a private registered provider to comply with section 21 and to avoid jeopardising its financial viability.
- 171 Clause 23(7) gives the Secretary of State powers to by direction grant an exemption to a local authority if conditions are set out in subsection (10), relating to serious financial difficulties, or subsection (11), relating to requirements prescribed in regulations, are satisfied. Subsection (12) enables the Secretary of State to publish a document about measures that he considers could be taken by a local authority to comply with section 21 and to avoid serious financial difficulties.
- 172 The Regulator or Secretary of State (as applicable) may grant to a provider a full or limited exemption. The clause provides the flexibility to tailor the exemption to the circumstances of a provider such as granting an exemption in respect of only some of the provider's social housing or for a limited period, applying a lesser reduction or limiting rent increases as specified in the direction.

## Clause 24: Enforcement

- 173 The clause makes consequential amendments to Part 2 of the Housing and Regeneration Act 2008, to ensure that, if appropriate, the Regulator may take enforcement action in relation to breaches of the rent reduction requirement.

## Clause 25: Further provision about social housing rents

- 174 The clause introduces Schedule 2 which makes provision for the rent initially payable by tenants of social housing whose tenancies begin after the beginning of 8 July 2015.

## Clause 26: Provision about excepted cases

- 175 The clause provides the Secretary of State with a power to make regulations regarding the maximum amount of rent payable by a tenant in a category excepted by regulations under clause 22 or Schedule 2. It enables the Secretary of State to make regulations setting out the maximum amount of rent payable by a tenant who ceases to be excepted from the rent reduction provisions part of the way through a relevant year. The regulations would deal with the rest of that year and, if there is one, the following relevant year.
- 176 The regulations may make provision about disapplying or modifying a requirement relating to a registered provider. Subsections (4) to (7) enable the Secretary of State to make provision for an exemption regime applicable to excepted cases (i.e. provision equivalent to clause 23). The regulations may allow a direction to specify the period and particular social housing covered by an exemption. The regulations may also provide for conditions to be satisfied before an exemption may be granted, and require the Regulator to obtain the consent of the Secretary of State before issuing an exemption.
- 177 Subsection (8) makes provision for enforcement of regulations under this new clause by providing that the regulations under this new clause may make provision applying Part 2 of

the Housing and Regeneration Act 2008 with modifications.

### Clause 27: Rent standards

178 The clause makes the powers of the Regulator of Social Housing to issue rent standards, under Sections 194(2A) and 198(3) of the Housing and Regeneration Act 2008, subject to the provisions in the Bill about rent levels.

### Clause 28: Interpretation

179 The clause makes provision about terms used in the social housing rents provisions. In particular, subsections (3) and (4) make provision clarifying when a tenancy begins and how a tenancy is to be treated as continuing, or as coming to an end.

### Schedule 1: Meaning of “the relevant sums” and “the relevant amount”

180 Schedule 1, paragraph 1, sets out the relevant sums for the purposes of Clause 9 (freeze of certain social security benefits for four tax years). These are:

181 The personal allowances for a person or couple used in the calculation of Income Support;

182 The personal allowances for a person or couple used in the calculation of Housing Benefit;

183 The work-related activity component of housing benefit;

184 The age-related amount for contribution-based jobseeker’s allowance which is relevant for calculating the claimant’s personal rate;

185 The personal allowances for a person or couple used in the calculation of income-related jobseeker’s allowance;

186 The contributory allowance of employment and support allowance;

187 The work-related activity component of contributory employment and support allowance;

188 The prescribed amounts for income-related employment and support allowance;

189 The work-related activity component of income-related Employment and Support Allowance;

190 The standard allowance for a single or a joint claimant of universal credit;

191 The additional amount of universal credit for a disabled child or qualifying young person (but only the smaller or smallest of sums specified); and

192 The limited capability for work element of universal credit

193 Schedule 1, paragraph 2, sets out the relevant sums for the purposes of clause 10 (freeze of certain tax credit amounts for four tax years). These are:

194 The individual element of child tax credit;

195 The basic, 30 hour, second adult and lone parent elements of working tax credit.

### Schedule 2: Further provision about social housing rents

196 Schedule 2 makes provision for the rent initially payable by tenants of social housing where a tenancy begins after the beginning of 8 July 2015. Part 1 of the Schedule sets out how such rents should be set in 3 different scenarios: new and existing social rent housing and Affordable Rent housing.

197 Paragraph 1 of Part 1 sets out the case for a new tenant of existing social rent housing where a tenancy begins after the beginning of 8 July 2015. The initial rent payable by that tenant should

be the higher of the 'social rent' rate, or the 'assumed rent' rate, on a pro-rata basis, with appropriate reductions. It also prescribes how the 'social rent' rate and the 'assumed rent' rate are determined.

198 Paragraph 2 of Part 1 sets out the case for a tenant of new social rent housing where a tenancy begins after the beginning of 8 July 2015. The rent payable by that tenant is the social rent rate, on a pro-rata basis, with appropriate reductions.

199 Paragraph 3 of Part 1 sets out the case for a person becoming tenant of Affordable Rent housing after 8 July 2015. The rent payable by that tenant should be set at no more than 80% of the market rate for that social housing, with the 1% reductions then applied in each of the following years. The market rent should be based on the valuation methods recognised by the Royal Institution of Chartered Surveyors.

200 Paragraph 4 enables the Secretary of State to make provision for identifying accommodation that may be let as social housing at an affordable rent, for example, where there are agreements or arrangements with the Homes and Communities Agency, the Greater London Authority, and the Secretary of State.

201 Part 2 of Schedule 2 sets out exceptions, exemptions and makes provision for enforcement of the requirements in Part 1. Provision for exceptions and exemptions mirror the conditions in Clauses 22 and 23 of the Bill. Paragraph 7 gives the Secretary of State a power to provide for the enforcement of this Schedule.

202 Part 3 of Schedule 2 sets out the general provisions. Paragraph 8 makes provision relating to regulations under the Schedule. Paragraph 9 gives the Secretary of State power to issue guidance relating to the determination of assumed rent. Paragraph 10 sets out the meaning of 'the relevant day'.

## Commencement

- 204 The statutory duties to report on full employment and apprenticeships will come into force at the end of the period of two months beginning on the day that the Act is passed and so will the duty to report on children in workless households and educational attainment, and the other amendments to the Child Poverty Act 2010 and provision about exemptions for registered social landlords - clause 23 and paragraph 6 of Schedule 2.
- 205 The freeze of certain social security benefits and certain tax credit amounts; and various regulation making powers will come into force on the day the Act receives Royal Assent.
- 206 The changes to tax credits will come into force on 6 April 2017.
- 207 The other clauses will come into force on the date appointed by the Secretary of State in regulations made by statutory instrument.

## Financial implications of the Bill

- 208 The Bill is expected to make significant savings to public expenditure.
- 209 HM Treasury and relevant Departments are considering how any additional departmental costs arising from the provisions in this Bill will be managed within existing Budgets.
- 210 The loans for mortgage interest provision will create a charge on public funds.
- 211 Any other additional costs arising from provisions in this Bill will be funded by HM Government, and will not impact on public funds.

## Parliamentary approval for financial costs or for charges imposed

- 212 The duty to report on troubled families will give rise to additional public expenditure. The duty to report on children living in workless households and educational attainment may also do so, and so may the new functions of the Social Mobility Commission (as the Commission is publicly funded). The loans for mortgage interest provision will create a charge on public funds. A Money resolution will be needed to cover this expenditure. Since the loans provisions provide for repayment of loans, the Money Resolution will include provision for the payment of sums received into the Consolidated Fund.

## Compatibility with the European Convention on Human Rights

- 213 Compatibility of the bill with the European Convention on Human Rights is dealt with in a memorandum and can be accessed at [www.gov.uk/government/publications/welfare-reform-and-work-bill-2015-delegated-powers](http://www.gov.uk/government/publications/welfare-reform-and-work-bill-2015-delegated-powers)

## Related documents

214 The following documents are relevant to the Bill and can be read at the stated locations:

- Financial Framework for the expanded Troubled Families programme: April 2015 onwards  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/409682/Financial Framework for the Expanded Troubled Families Programme april 2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/409682/Financial_Framework_for_the_Expanded_Troubled_Families_Programme_april_2015.pdf)
- Delegated powers memorandum  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/444371/welfare-reform-and-work-bill-2015-delegated-powers-july-2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/444371/welfare-reform-and-work-bill-2015-delegated-powers-july-2015.pdf)

## Annex A - Territorial extent and application

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion required?	Extends to Scotland?	Legislative Consent Motion required?	Extends to Northern Ireland?	Legislative Consent Motion required?
1 Full Employment: reporting obligations	Yes	Yes	No	Yes	No	Yes	No
2 Apprenticeships reporting obligation	Yes	No	No	No	No	No	No
3 Support for troubled families: reporting obligation	Yes	No	No	No	No	No	No
4 Workless households and educational attainment: reporting obligations	Yes	No	No	No	No	No	No
5 Social mobility commission	Yes	Yes - in part	Yes - in part	Yes - in part	Yes - in part	Yes	No
6 Other amendments to Child Poverty Act	Yes	Yes - in part	Yes - in part	Yes - in part	Yes - in part	Yes - in part	No
7 Benefit cap	Yes	Yes	No	Yes	No	No	No
8 Review of benefit cap	Yes	Yes	No	Yes	No	No	No
9 Freeze of certain social security benefits for four tax years and Schedule 1	Yes	Yes	No	Yes	No	No - social security benefits Yes - Child Benefit	No
10 Freeze of certain tax credit amounts for four tax years	Yes	Yes	No	Yes	No	Yes	No

*These Explanatory Notes relate to the Welfare Reform and Work Bill as brought from the House of Commons on 28 October 2015 (HLBill 69)*

11 Changes to child tax credit	Yes	Yes	No	Yes	No	Yes	No
12 Changes to child element of universal credit	Yes	Yes	No	Yes	No	No	No
13 Employment and support allowance: work-related activity component	Yes	Yes	No	Yes	No	No	No
14 Universal credit: limited capability for work element	Yes	Yes	No	Yes	No	No	No
15 Universal Credit: Work-related requirements	Yes	Yes	No	Yes	No	No	No
16-19 Loans for mortgage interest	Yes	Yes	No	Yes	No	No	No
20 Motability administrative costs	Yes	Yes	No	Yes	No	No	No
21-28 and Schedule 2 Social housing rents	Yes	No	No	No	No	No	No

*These Explanatory Notes relate to the Welfare Reform and Work Bill as brought from the House of Commons on 28 October 2015 (HLBill 69)*

# WELFARE REFORM AND WORK BILL

## EXPLANATORY NOTES

These Explanatory Notes relate to the Welfare Reform and Work Bill as brought from the House of Commons on 28 October 2015 (HLBill 69).

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