

# Welfare Reform and Pensions Act 1999

## CHAPTER 30

*Note: The material reproduced below is limited to what is relevant to this volume. However, even where sections are relevant to Volume 8 but they only contain consequential amendments, the text will not be reproduced. see Volume 2 for the full Act.*

### CHAPTER III

#### OTHER WELFARE PROVISIONS

**79.**—(1) The Secretary of State may by regulations make a scheme providing for a housing benefit claimant, where he moves from an under-occupied dwelling in the public or social rented sector to a qualifying dwelling, to be entitled to be paid an amount calculated by reference to the difference between—

Measures to reduce under-occupation by housing benefit claimants.

- (a) the prescribed payments he was liable to make in respect of his former dwelling, and
- (b) those he is liable to make in respect of his new dwelling.

(2) In subsection (1) the reference to a qualifying dwelling is to a dwelling (whether in the public or social rented sector or not) which, in relation to the claimant, either—

- (a) is not under-occupied, or
- (b) is under-occupied to a lesser extent than the claimant's former dwelling.

(3) Regulations under this section may, in particular, make provision—

- (a) as to the circumstances in which, in relation to a housing benefit claimant, a dwelling is or is not to be regarded for the purposes of the scheme as under-occupied or under-occupied to a lesser extent than another dwelling;
- (b) as to the manner in which an amount payable to such a claimant under the scheme is to be calculated;
- (c) for any such amount to be payable (subject to subsection (7))—
  - (i) in a case where the claimant's former and new dwellings are situated in the area of the same local authority, by that authority, or
  - (ii) in a case where they are situated in the areas of different local authorities, by whichever of those authorities is prescribed.

(4) Regulations made in pursuance of subsection (3)(b) may provide for the amount payable to a housing benefit claimant under the scheme (“the relevant amount”) to be reduced on account of—

- (a) any arrears of rent payable by him, or
- (b) any amount paid to him by way of housing benefit which constitutes an overpayment for housing benefit purposes;

but regulations under this section shall not otherwise provide for the making of any reduction in the relevant amount on account of any sum due to or recoverable by any public or local authority.

(5) A person aggrieved by a determination of any prescribed description made under regulations under this section may appeal to such court or tribunal as may be prescribed; and the regulations may make provision as to the procedure to be followed in connection with appeals under this subsection.

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(6) Regulations under this section may provide that the scheme is to apply only in relation to one or more prescribed areas; and, if they do so, they may also—

- (a) provide that (unless continued in force by subsequent regulations under this section) the scheme is to remain in force there only for a prescribed period;
- (b) include such transitional, consequential or saving provisions as the Secretary of State considers appropriate in connection with the scheme ceasing to be in force in relation to the area or areas at the end of that period.

(7) Despite the fact that the scheme is in force in relation to the area of a local authority (whether by virtue of subsection (6) or otherwise), it shall not have effect in relation to the authority unless it has been adopted by resolution of the authority.

(8) Where a local authority makes any payment under the scheme the authority shall be reimbursed by the Secretary of State in respect of that payment in such manner and subject to such conditions as to claims, records, certificates or other information or evidence as may be prescribed (any reduction made by virtue of subsection (4) being disregarded for the purposes of this subsection).

(9) Subject to any prescribed exceptions or modifications, the provisions of the Administration Act shall have effect in relation to payments under the scheme as they have effect in relation to housing benefit.

(10) For the purposes of this section a dwelling occupied by a housing benefit claimant is in the public or social rented sector if the payments which the claimant is liable to make in respect of the dwelling (and on account of which he is entitled to housing benefit) are to be made to—

- (a) a local authority,
- (b) a body eligible for registration as a social landlord under Part I of the Housing Act 1996 (whether so registered or not), or
- (c) in Scotland, a registered housing association within the meaning of the Housing Associations Act 1985.

(11) In this section—

“dwelling” has the same meaning as in Part VII of the Contributions and Benefits Act (income-related benefits);

“housing benefit claimant”, in relation to a dwelling, means a person entitled to housing benefit by virtue of being liable to make payments in respect of the dwelling;

“local authority” has the same meaning as in the Administration Act;

“prescribed” means specified in or determined in accordance with regulations under this section.

### *Supplementary*

#### **83.—(1)-(7)**

Regulations and orders.

(8) Any power conferred by this Act to make regulations or an order relating to—

- (a) housing benefit, or
- (b) council tax benefit,

includes power to make different provision for different areas or different authorities; and regulations under section 60 or 79 may make different provision for different areas.

(9)-(11).