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## Great Britain's Welfare Reform Act of 2012 - Implementation Overview, Preliminary Impact, and Future Implications

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## Comment

### Great Britain's Welfare Reform Act of 2012— Implementation Overview, Preliminary Impact, and Future Implications

BARBARA MAKOWIECKI\*

#### Introduction

The Welfare Reform Act 2012 (WRA 2012 or the Act)<sup>1</sup> is Britain's most significant legislative overhaul of its welfare system since the 1940s.<sup>2</sup> The goal of WRA 2012 is to simplify the benefit system to reduce poverty, unemployment, and welfare dependency, in addition to reducing the occurrence of fraud and error prevalent in the welfare system.<sup>3</sup> But the main objective is to encourage people who are currently on benefits to find paid work or increase their hours by making sure work pays, which is accomplished by ensuring that the welfare benefits they receive don't outweigh the benefits of finding gainful employment.<sup>4</sup> WRA 2012 is taking effect in multiple stages over the course of the next three to four years.<sup>5</sup> Proponents of WRA 2012 predict that it will substantially decrease the amount of money spent compared to that which the British government previously spent on welfare benefits in addition to encouraging increased employment.<sup>6</sup> Overall, this article aims to provide an in depth analysis of WRA 2012, the various arguments of the pro-

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1. Welfare Reform Act, 2012, c. 5 (U.K.), at 1-2 [hereinafter WRA 2012].

2. Great Britain Welfare Reform Act 2012, Executive Summary, Law Library of Congress, 2012—008032, at 1, [http://www.loc.gov/law/help/uk\\_welfare\\_act\\_2012-008032\\_RPT.pdf](http://www.loc.gov/law/help/uk_welfare_act_2012-008032_RPT.pdf) [hereinafter Executive Summary].

3. Press Release, Dep't for Work & Pensions, Iain Duncan Smith: Welfare Reforms Realized (Mar. 8, 2012), <https://www.gov.uk/government/news/iain-duncan-smith-welfare-reforms-realised>.

4. *Id.*

5. Executive Summary, *supra* note 2, at 1.

6. *Id.*

ponents and opponents of this legislation, its economic and social impact on Great Britain thus far, and suggestions for future welfare reform.

## **I. Historical Background on Welfare Reform in Great Britain**

### **A. THE POOR LAWS**

One of the first forms of welfare in England was encompassed within “the Poor Laws,” which are broken into two categories: the Old Poor Law and the New Poor Law.<sup>7</sup> The Old Poor Law was created by the 1601 Act for the Relief of the Poor<sup>8</sup> and was the means by which poor people in Britain received assistance at the time.<sup>9</sup> The law stated that local parishes were responsible for taking care of their own poor and those who were unable to work were given monetary assistance for survival.<sup>10</sup> But by 1830 there was much criticism of the old Poor Law due to its growing cost.<sup>11</sup> Several of the arguments opposing the Old Poor Law were that the money given to the poor “was raised by taxes on the middle and upper class people . . . [who] complained that money went to people who were lazy and did not want to work;” additionally, opponents complained that the Old Poor Law “kept workers’ wages low because employers knew that wages would be supplemented by money provided by the Poor Law.”<sup>12</sup> In addition to the above complaints, the Old Poor Law was administered via the parish, resulting in inconsistent implementation in different areas because there was no uniform mechanism for enforcing the Laws.<sup>13</sup>

The Poor Law Amendment Act of 1834<sup>14</sup> created what is now known as the New Poor Law.<sup>15</sup> The New Poor Law was designed to be “a rigorously implemented, centrally enforced, standard system that was to be imposed on all and which centered on the work-house.”<sup>16</sup> Proponents of the New Poor Law thought it would “reduce the cost of looking after the poor, take beggars off the streets, and encourage poor people to work hard to support themselves.”<sup>17</sup> The New Poor Law made it harder for the poor to receive assistance by mandating that people had to go to a workhouse where they would receive food and clothing in return for daily manual labor.<sup>18</sup> The workhouse conditions were

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7. Peter Higginbotham, *The Poor Laws*, WORKHOUSE, <http://www.workhouses.org.uk/poorlaws/> (last visited June 5, 2015) [hereinafter Higginbotham Poor Laws].

8. See generally 1601 Act of the Relief for the Poor, available at <http://www.workhouses.org.uk/poorlaws/1601act.shtml>.

9. Higginbotham Poor Laws, *supra* note 7.

10. GCSE Bitesize, *History: British Society 1815-1851, People and Poverty*, BBC, <http://www.bbc.co.uk/schools/gcsebitesize/history/shp/britishsociety/thepoorrev1.shtml> (last visited June 5, 2015) [hereinafter BBC Poor Law].

11. *Id.*

12. *Id.*

13. Paul Spicker, *An Introduction to Social Policy: British Social Policy 1601-1948*, Aberdeen, Scotland: The Robert Gordon University, <http://www2.rgu.ac.uk/publicpolicy/introduction/historyf.htm#oldpoorlaw> (last visited June 5, 2015).

14. The Poor Law Amendment Act of 1834, available at <http://www.workhouses.org.uk/poorlaws/1834act.shtml>.

15. Higginbotham Poor Laws, *supra* note 7.

16. *Id.*

17. NAT’L ARCHIVES, 1834 POOR LAW 2 (2008), <http://www.nationalarchives.gov.uk/documents/education/poor-law.pdf> (last visited June 5, 2015) [hereinafter National Archives].

18. BBC Poor Law, *supra* note 10.

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deplorable in order to ensure that only the most desperate of the poor would seek assistance there.<sup>19</sup> People opposed to the New Poor Law referred to the workhouses as “Prisons for the Poor.”<sup>20</sup> Ultimately, the Poor Laws came to be despised and the subsequent development and reform of social services during the 20th century avoided reliance on such laws.<sup>21</sup> Thus, the ensuing development of the welfare state structure was much welcomed in contrast to the Poor Laws.

**B. THE WELFARE STATE**

In 1942, Sir William Beveridge, deemed “the architect of the UK social security system,”<sup>22</sup> published a report at the behest of the government entitled “Social Insurance and Allied Services,” which subsequently became known as “The Beveridge Report of 1942.”<sup>23</sup> In his report, Beveridge noted that social insurance only represents a piece of social progress as a whole, stating that “[s]ocial insurance fully developed may provide income security; it is an attack upon Want . . . [b]ut Want is one only of the five giants on the road of reconstruction . . . [t]he others are Disease, Ignorance, Squalor and Idleness.”<sup>24</sup> The main thrust of Beveridge’s report was its emphasis on achieving social security via cooperation between the individual and the government, stating that “[t]he State should offer security for service and contribution.”<sup>25</sup> Beveridge envisioned a National Insurance system that was to be based upon three overriding expectations: (1) family allowances, (2) a national health service, and (3) full employment.<sup>26</sup> Ultimately, Beveridge’s report proposed an all-encompassing social insurance system in which citizens were covered the span of their entire life, from birth to death.

The Beveridge Report greatly influenced the formation of post war legislation by the Labour government regarding welfare in the United Kingdom and what would become known as the modern “welfare state.”<sup>27</sup> The government responded to the Beveridge Report in 1944, largely accepting Beveridge’s plan for a social insurance system based on compulsory participation for the “working population who would pay flat rate contributions and, in return, could claim flat rate benefits” to cover unemployment, widowhood, old age, and sickness.<sup>28</sup> In 1945, the government proposed three key pieces of legislation, including: the 1946 National Insurance Act, which was based on Beveridge’s social security model; the 1946 National Health Service Act; and the 1948 National Assistance Act, which finally did away with the remnants of the Poor Laws discussed above.<sup>29</sup> These acts all came into force in 1948 and formed the basis for the modern welfare state, which aimed to implement an institutional model of welfare that provided for the provision of

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19. *Id.*

20. National Archives, *supra* note 17, at 2.

21. Spicker, *supra* note 13.

22. *Id.*

23. SIR WILLIAM BEVERIDGE, SOCIAL INSURANCE & ALLIED SERVICES (1942), [http://news.bbc.co.uk/2/shared/bsp/hi/pdfs/19\\_07\\_05\\_beveridge.pdf](http://news.bbc.co.uk/2/shared/bsp/hi/pdfs/19_07_05_beveridge.pdf).

24. *Id.* at 6.

25. *Id.*

26. Spicker, *supra* note 13.

27. POLICY STUDIES INSTITUTE (PSI), *The Beveridge Report and the Postwar Reforms*, in VICTIMS OR VILAINS? 21, 21, <http://www.psi.org.uk/publications/archivepdfs/Victims/VV2.pdf> (last visited June 5, 2015).

28. *Id.* at 28.

29. Spicker, *supra* note 13.

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social services in a similar way as the provision of public services.<sup>30</sup> The fundamental components of the modern welfare state were: social security, housing, health, education, and welfare.<sup>31</sup>

The postwar legislation that created the welfare state in Britain reflected a shift in ideology away from individual liberty and self-support towards state responsibility for the welfare of the citizens.<sup>32</sup> This collective approach to welfare went largely unchallenged for roughly thirty years until 1975 when Margaret Thatcher, the strong Conservative Party leader and new Prime Minister, championed the idea of “rolling back the state” by cutting welfare spending and lowering taxes, ultimately leading to less state intervention.<sup>33</sup> This new ideology came to be known as “Thatcherism,” which referred to a strong belief in a small state and free markets with less government involvement in citizens’ private lives.<sup>34</sup> Although Thatcherism did not in fact lead to large cuts in welfare spending, the period from 1975 to 1990 saw a shift in public opinion that began to undermine the previous widespread agreement favoring the welfare state and led to uncertainty in Britain regarding the future of the welfare state and the ideal level of state involvement.<sup>35</sup>

Despite the significant changes caused by the welfare reforms undertaken during the 1970s to the 1990s, and then by the Labor government of 1997-2010, which placed greater limits on pensions and benefits and stressed individual responsibility and choice, the welfare state still remains largely intact.<sup>36</sup> Among the various arguments regarding the future of the British welfare state and the appropriate level of government involvement and individual responsibility, there seems to be consensus that some level of support needs to continue to be provided for those who are out of work and struggling to maintain a base level of living.<sup>37</sup> But the most contentious arguments revolving around welfare reform remain as to what level of benefits should be provided by the government and what conditions should be attached to their receipt.<sup>38</sup> It is important to note that the welfare state has thus far failed to fully address, let alone come close to eradicating, Beveridge’s “Five Giants” of Want, Disease, Ignorance, Squalor and Idleness, thus leading to continued debate on the effectiveness of past reforms and what the best course of action is for the future.<sup>39</sup> Currently, the foreseeable future of welfare reform in Britain appears to be one of continued reduction in government spending, greater conditions placed on the receipt of benefits, and greater responsibility placed on individuals. These changes are a result of WRA 2012, which was proposed by the Conservative government of David Cameron as

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30. *Id.*

31. *Id.*

32. THE WELFARE STATE, NAT’L ARCHIVES, [http://www.nationalarchives.gov.uk/pathways/citizenship/brave\\_new\\_world/welfare.htm](http://www.nationalarchives.gov.uk/pathways/citizenship/brave_new_world/welfare.htm) (last visited June 5, 2015) [hereinafter Welfare State].

33. *Id.*

34. UK Politics, *What is Thatcherism?*, BBC NEWS (Apr. 10, 2013), <http://www.bbc.co.uk/news/uk-politics-22079683>.

35. Welfare State, *supra* note 32.

36. GIDEON CALDER, JEREMY GASS, & KIRSTEN MERRILL-GLOVER, CHANGING DIRECTIONS OF THE BRITISH WELFARE STATE 213 (2012).

37. *Id.*

38. *Id.*

39. *Id.* at 214.

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part of the program of austerity aimed at reducing welfare spending in the United Kingdom.<sup>40</sup>

## **II. Great Britain's Welfare Reform Act of 2012**

WRA 2012 received Royal Assent on March 8, 2013, marking the most substantial modification of Britain's welfare system in more than sixty years.<sup>41</sup> WRA 2012 is made up of over 350 sections and serves as the framework for secondary legislation that is needed in order to implement the various requirements essential to the success of this large-scale welfare reform.<sup>42</sup> The Government's goal for the Act is to simplify the benefits system while making it fairer in order "to help reduce poverty, worklessness, and welfare dependency and to reduce levels of fraud and error."<sup>43</sup> The focus and intent of these goals are to encourage people to find work by providing them with greater incentives and to ensure that the system is fair in relation not only to those claiming benefits but also to the tax payers largely funding the benefits, all while continuing to provide protection for the most vulnerable segments of society.<sup>44</sup> The Act aims to achieve these goals by "replac[ing] a large number of different benefits with a single benefit, Universal Credit; review[ing] child support maintenance; improv[ing] information sharing between government departments responsible for the administration of benefits; increase[ing] fraud protection and penalties; and cap[ping] benefits."<sup>45</sup>

In an article by George Osborne, Chancellor of the Exchequer, and Iain Duncan Smith, Secretary for Work and Pensions, the two stated that, "we are just restoring the original principles of the welfare state: that those who can work must work, and a life on benefits must not be more attractive than working."<sup>46</sup> They went on to state that "[w]e're giving people on benefits the tools they need to get back to work, instead of trapping them in dependency."<sup>47</sup> Their statements shed light on the growing culture of benefit dependency in Britain that ultimately led to the push for such a widespread reform. Under the last Labor government, the welfare bill swelled by sixty percent and working-age families received payments totaling £95 billion in 2010 alone.<sup>48</sup> Iain Duncan Smith recently stated that, "the government's welfare reforms had saved the taxpayer £50 billion and 'restored fairness to the system.'"<sup>49</sup> Ultimately, WRA 2012 is "a seismic shift in British life: the wholesale reform of the welfare system under the guiding principles that work must pay

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40. See Stephen Castle, *Austerity Remains Key to Britain's Economic Plan*, N.Y. TIMES (June 26, 2013), <http://www.nytimes.com/2013/06/27/world/europe/austerity-remains-key-to-britains-economic-plan.html>.

41. Executive Summary, *supra* note 2, at 1.

42. See *supra* text accompanying note 2.

43. *2010 to 2015 Government Policy: Welfare Reform*, DEP'T FOR WORK & PENSIONS (May 7, 2015), <https://www.gov.uk/government/publications/2010-to-2015-government-policy-welfare-reform/2010-to-2015-government-policy-welfare-reform> [hereinafter *2010 to 2015 Government Policy*].

44. *Id.*

45. Executive Summary, *supra* note 2, at 1.

46. George Osborne & Iain Duncan Smith, *We're Fixing the Benefits System, and Giving a Better Deal to Those in Work*, TELEGRAPH (Mar. 31, 2013), <http://www.telegraph.co.uk/news/politics/9964373/Were-fixing-the-benefits-system-and-giving-a-better-deal-to-those-in-work.html>.

47. *Id.*

48. *Id.*

49. Sarah Neville, *Duncan Smith Rolls Out Universal Credit Payment*, FIN. TIMES (Feb. 16, 2015, 7:18 PM), <http://www.ft.com/intl/cms/s/0/e4ac9768-b604-11e4-a577-00144feab7de.html#axzz3byDlevQ7>.

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and nobody should be better off on benefits than they are in a job.”<sup>50</sup> WRA 2012 brings many widespread changes to the previous welfare system, as discussed in detail subsequently, but the change with the most substantial impact by far will be the Universal Credit.

A. PART 1: UNIVERSAL CREDIT

The Universal Credit was introduced in response to what the government deemed the two fundamental issues with the old welfare system: “poor work incentives and complexity.”<sup>51</sup> These two problems were apparent in the old system to the extent that it provided individualized support meant to address welfare recipients’ particular needs, but this ended up having the perverse effect of creating a nearly impenetrable web of complex benefits that resulted in widespread confusion and untenable administrative costs.<sup>52</sup> The Universal Credit is claimed to be the centerpiece of WRA 2012 and is expected to spark cultural change because it requires people to “sign a ‘claim of commitment’ under which they will pledge to make themselves available for work, search for a job, take interviews, take the first job that becomes available and work hard.”<sup>53</sup> Failure to do so could result in as much as a three-year loss of benefits.<sup>54</sup> While some critics view this aspect of the Universal Credit as overly harsh, Smith thinks quite the opposite, noting that: “People will know from day one, for the first time ever, what’s expected of them . . . [w]e want to say to people, you’re claiming unemployment benefit but you’re actually in work paid for by the state: you’re in work to find work.”<sup>55</sup>

Basically, the Universal Credit combines the previous wide range of working-age benefit payments into a single monthly payment.<sup>56</sup> The monthly payment will replace the following six benefits: “Income-based Jobseeker’s Allowance, Income-related Employment and Support Allowance, Income Support, Working Tax Credit, Child Tax Credit, and [the] Housing Benefit.”<sup>57</sup> The Universal Credit will be paid in arrears to most households.<sup>58</sup> This payment system is intended to imitate how most people with jobs receive their pay in order to get those who are out of work and on benefits used to payment resembling a paycheck and to instill responsible money management practices in claimants. The single monthly payment is a substantial change for claimants previously receiving benefits under the old welfare system, who previously were required to budget on a

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50. Patrick Hennessy, *Iain Duncan Smith: How Margaret Thatcher Inspired my Welfare Reforms*, TELEGRAPH (Apr. 27, 2013, 9:00 PM), <http://www.telegraph.co.uk/news/uknews/10022834/Iain-Duncan-Smith-how-Margaret-Thatcher-inspired-my-welfare-reforms.html> [hereinafter Hennessy].

51. *Universal Credit*, DEP’T FOR WORK & PENSIONS 1 (Dec. 2012), [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/220177/universal-credit-wr2011-ia.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/220177/universal-credit-wr2011-ia.pdf).

52. *Id.*

53. Hennessy, *supra* note 50.

54. *See supra* text accompanying note 50.

55. *See supra* text accompanying note 50.

56. *2010 to 2015 Government Policy*, *supra* note 43.

57. *Universal Credit*, GOV.UK, <https://www.gov.uk/universal-credit> (last visited June 5, 2015) [hereinafter UC, GOV.UK].

58. Pippa Bell, *Briefing: Universal Credit Q&A*, NAT’L HOUSING FED’N 2 (Feb. 2012), <http://s3-eu-west-1.amazonaws.com/pub.housing.org.uk/Universal%20Credit%20Q&A.pdf> [hereinafter *Universal Credit Q&A*].

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two-week basis.<sup>59</sup> The Department of Work and Pensions will be the single government agency delivering the Universal Credit to claimants instead of the delivery methods used under the old welfare system in which the various benefits were administered via multiple agencies.<sup>60</sup> The new delivery system will be more streamlined and makes use of "real-time information from a version of the Pay-As-You-Earn tax system, reducing the need for claimants to inform officials of changes to their income."<sup>61</sup> The Universal Credit is being introduced in multiple stages that started in 2013 and are expected to be completed sometime in 2016, at which point in time the Universal Credit will be available throughout Great Britain and all claimants will likely be switched over by 2017 at the latest.<sup>62</sup> Once Universal Credit is fully implemented, it is expected to "make 3 million people better off with a £7 billion boost to the economy every year."<sup>63</sup>

1. *Entitlement and Awards*

As mentioned above, the Universal Credit is a single monthly payment that will provide support to working-age claimants who are both employed and unemployed.<sup>64</sup> It is calculated based on a combination of: (a) a standard allowance, (b) an amount for responsibility for children or young adults, (c) a housing allowance, and (d) amounts for other particularized needs or circumstances.<sup>65</sup> Generally, claims for Universal Credit can be made by an individual person or jointly by couples, and in certain situations members of a couple can make claims as single individuals.<sup>66</sup> Both single claimants and joint claimants must meet certain basic conditions and financial conditions to be entitled to receive the Universal Credit.<sup>67</sup> Subject to a few specific exceptions, to meet the basic conditions a person must: (1) be at least 18 years old, (2) have not reached the qualifying age for state pension credit, (3) be in Great Britain, (4) not be receiving an education, and (5) have accepted a claimant commitment.<sup>68</sup> There are also certain financial conditions that claimants must meet to qualify for entitlement, which depend on a combination of the single or joint claimants' capital and income being below a certain limit.<sup>69</sup> The limit on claimant's capital was set at £16,000 in the Universal Credit Regulations (Regulations), which came into force on April 29, 2013.<sup>70</sup>

The Universal Credit awards are calculated by subtracting the amounts to be deducted from the maximum amount.<sup>71</sup> The maximum amount is calculated based on adding all of the factors mentioned above, such as standard allowance, housing allowance, responsibil-

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59. *Id.*

60. *Id.* at 6.

61. *Id.*

62. *Universal Credit Q&A*, *supra* note 58.

63. Press Release, Dep't for Work & Pensions, Universal Credit Roll Out Continues (May 11, 2015), <https://www.gov.uk/government/news/universal-credit-roll-out-continues>.

64. *Universal Credit Q&A*, *supra* note 58.

65. *See supra* text accompanying note 58, at 2.

66. WRA 2012, *supra* note 1, at 1-2.

67. *See supra* text accompanying note 1.

68. *Universal Credit Q&A*, *supra* note 58, at 2.

69. *See supra* text accompanying note 58.

70. The Universal Credit Regulations 2013, SI 2013/376, arts. 1, 17 (Eng.), [http://www.legislation.gov.uk/uksi/2013/376/pdfs/ukxi\\_20130376\\_en.pdf](http://www.legislation.gov.uk/uksi/2013/376/pdfs/ukxi_20130376_en.pdf) [hereinafter Universal Credit Regulations].

71. *Universal Credit Q&A*, *supra* note 58, at 2.

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ity for children, and any other special needs or circumstances.<sup>72</sup> Deductions taken from the maximum amount are based on earned income calculated in the prearranged manner, in addition to unearned income.<sup>73</sup> The deductions from the maximum amount to determine the Universal Credit award amount include: “all of the claimant’s unearned income . . . in respect of the assessment period; and sixty-five percent of the amount by which the claimant’s earned income . . . in respect of the assessment period exceeds the work allowance.”<sup>74</sup> In order for a claimant to receive a housing allowance included within the monthly Universal Credit payment, the housing must be located in Great Britain and it must be a residential accommodation.<sup>75</sup> The types of “other particular needs or circumstances” that additional credit is allotted for include situations where the claimant’s ability to work and perform work-related activities is limited for some reason, or where the claimant is the primary caretaker for a severely disabled individual.<sup>76</sup>

WRA 2012 also introduced new benefit caps that limit the universal credit award a claimant can received based on certain considerations.<sup>77</sup> Subject to certain exceptions specified in the Regulations, benefits are capped when the welfare benefits a single person or couple are qualified to receive in any given month exceed £1,517 for a single claimant not responsible for any children or £2,167 for joint claimants and single claimants who are responsible for the care of a child.<sup>78</sup> The welfare benefits considered in determining whether a single claimant or joint claimants have exceeded the relevant amount and therefore must have their benefits capped include allowances for: bereavement, caregivers, child benefits, employment and support, guardians, jobseekers, maternity, universal credit, widowed mother’s, widowed parents, and widow’s pension.<sup>79</sup> The benefit cap is an attempt to reduce the public expenditure on excessive welfare benefits and to reduce the budget deficit.<sup>80</sup> The Government noted that “[t]he state can no longer afford to pay people disproportionate amounts in benefit each week, sometimes in excess of what someone in work may take home in wages.”<sup>81</sup> Thus, in 2013, the Government introduced the benefit cap on the total monthly amount that people of working-age are allowed to receive, ensuring that “workless households will no longer receive more in benefit than the average wage for working households.”<sup>82</sup>

## *2. Claimant Responsibilities*

Chapter two of WRA 2012 outlines all of the claimant’s responsibilities that now coincide with claiming the Universal Credit benefit.<sup>83</sup> This is a feature of the Act that particu-

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72. See *supra* text accompanying note 58.

73. See *supra* text accompanying note 58.

74. *Universal Credit Regulations*, *supra* note 70, at 19.

75. WRA 2012, *supra* note 1, at 5.

76. *Universal Credit Regulations*, *supra* note 70, at 24.

77. WRA 2012, *supra* note 1, at 5.

78. *Universal Credit Regulations*, *supra* note 70, at 44.

79. See *supra* text accompanying note 70.

80. *Benefit Cap (Housing Benefit) Regulations 2012: Impact Assessment for the Benefit Cap*, DEP’T FOR WORK & PENSIONS 1 (July 16, 2012), [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/220178/benefit-cap-wr2011-ia.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/220178/benefit-cap-wr2011-ia.pdf).

81. *Id.*

82. *Id.*

83. WRA 2012, *supra* note 1, Ch.2, at 6.

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larly sets this welfare system apart from previous models, and it is representative of the underlying message sent by this legislative overhaul: “[t]he something for nothing culture is coming to an end.”<sup>84</sup> Among the claimant responsibilities is a claimant commitment that sets out all of the work-related requirements and expectations of claimants in addition to possible sanctions for failure to comply with the provisions, which a claimant is required to accept in order to obtain the universal credit.<sup>85</sup> These work-related requirements include: a work-focused interview requirement, a work preparation requirement, a work search requirement, and a work availability requirement.<sup>86</sup>

The work-focused interview requirement requires a claimant to participate in work-focused interviews as directed by the Secretary of State for the purpose of increasing the chances that the claimant will procure paid work.<sup>87</sup> Additionally, the Secretary of State can decide the time and place the interview is to take place and is permitted to require a claimant to attend an interview for any reason associated with: “imposi[ng] a work-related requirement on the claimant; verifying the claimant’s compliance with a work-related requirement; [or] assisting the claimant to comply with a work-related requirement.”<sup>88</sup> The Regulations specify that the purpose of a work-focused interview can include any of the following:

[A]ssessing the claimant’s prospects for remaining in or obtaining paid work; assisting or encouraging the claimant to remain in or obtain paid work; identifying activities that the claimant may undertake that will make remaining in or obtaining paid work more likely; identifying training, educational, or rehabilitation opportunities for the claimant which may make it more likely that the claimant will remain in or obtain paid work or be able to do so; identifying current or future work opportunities for the claimant that are relevant to the claimant’s needs and abilities; [and] ascertaining whether a claimant is in gainful self-employment.<sup>89</sup>

In accordance with the work preparation requirement the claimant must take certain actions prescribed by the Secretary of State aimed at increasing the likelihood that the claimant will either find paid work or additional, better-paid work.<sup>90</sup> These work preparation actions include: “attending a skills assessment; improving personal presentation; participating in training; participating in an employment program; undertaking work experience or a work placement; developing a business plan; [or] any action prescribed for the purpose [of making it more likely that the claimant will procure paid work].”<sup>91</sup> The “work search requirement” mandates that the claimant must do everything reasonable and anything specified by the Secretary of State in order to gain paid work, including: “carrying out work searches; making applications; creating and maintaining an online profile,

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84. Giles Sheldrick, *Britain’s ‘Something for Nothing’ Culture is Over Says Iain Duncan Smith*, DAILY EXPRESS (Apr. 29, 2013), <http://www.express.co.uk/news/uk/395548/Britain-s-something-for-nothing-culture-is-over-says-Iain-Duncan-Smith>.

85. Universal Credit Q&A, *supra* note 58, at 2.

86. WRA 2012, *supra* note 1, at 6.

87. *Id.* at 7.

88. *Id.* at 10-11.

89. Universal Credit Regulations, *supra* note 70, at 51.

90. WRA 2012, *supra* note 1, at 7.

91. *Id.*

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registering with an employment agency; [and] seeking references.”<sup>92</sup> The “work availability requirement” dictates that the claimant make himself or herself available for work, meaning willing and able to immediately begin working.<sup>93</sup>

Some claimants are exempt from the Secretary of State imposing work-related requirements on them. Claimants fall into this category if they have a limited capacity to work or to do work-related activities, have substantial care responsibilities related to caring for a severely disabled person, or they are the primary caregiver for a child under the age of one.<sup>94</sup> Claimants may be considered to have a limited capacity to work or to do work-related activities for various reasons, to include physical or mental health issues that have been diagnosed and substantiated by a medical professional, such as terminal illnesses, pregnancy, receiving treatment for cancer, risk to self or others, or disabled and over the age to receive state pension credit.<sup>95</sup>

3. *Reduction of Universal Credit: Sanctions*

The amount of a universal credit award can be reduced via sanctions if the claimant fails to comply with the provisions set out in WRA 2012 and further specified in the Regulations. The following are considered to be sanctionable failures by the claimant:

fail[ing] for no good reason to comply with a requirement imposed by the Secretary of State under a work preparation requirement to undertake a work placement . . . ; fail[ing] for no good reason to comply with a requirement imposed by the Secretary of State under a work search requirement to apply for a particular vacancy for paid work; fail[ing] for no good reason to comply with a work availability requirement by not taking up an offer of paid work; by reason of misconduct, or voluntarily and for no good reason, ceas[ing] paid work or los[ing] pay.<sup>96</sup>

The reduction period, or the number of days that the reduction in the amount of benefits lasts, can be anywhere from fourteen to 1,095 days depending on certain factors set out in the Regulations.<sup>97</sup> The Regulations also specify how to calculate the actual amount of the reduction to be taken from the universal credit for each assessment period as well as the daily reduction rate.<sup>98</sup>

To balance the potential detrimental effects of the award reductions caused by sanctionable failures, WRA 2012 allows for “hardship payments” to be included in the Universal Credit amount if the claimant is or will be in hardship.<sup>99</sup> The Regulations state that a claimant is only considered to be in hardship if they are unable to meet their immediate basic essential needs, such as accommodation, heating, food, and hygiene, or the same

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92. *Id.* at 8.

93. *Id.*

94. *Id.* at 9.

95. Universal Credit Regulations, *supra* note 70, at 105.

96. WRA 2012, *supra* note 1, at 12.

97. See Universal Credit Regulations, *supra* note 70, at 56-59 (specifying the general principles for calculating the reduction period based on the type and frequency of sanctions). The Regulations distinguish between high-level, medium-level, and low-level sanctions and the reduction of benefits that correspond to each level.

98. See *id.* at 60 (explaining how the amount of reduction is calculated for each assessment period as well as the daily reduction rate).

99. WRA 2012, *supra* note 1, at 14.

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needs of a child or a qualifying young person whom they are responsible for, only due to the fact that the amount of their award has been reduced.<sup>100</sup> Furthermore, they must have made every effort to find other sources of support to meet their immediate needs and they also have to stop spending money on things that are not related to such basic needs.<sup>101</sup>

**B. PART 2: WORKING-AGE BENEFITS**

**1. *Jobseeker's Allowance***

Claimant Commitments are records of a claimant's work-related responsibilities and expectations in relation to the Jobseeker's Allowance award as discussed in detail above.<sup>102</sup> Claimants who wish to receive the Jobseeker's Allowance as part of their monthly Universal Credit payment are required to accept and comply with a Claimant Commitment.<sup>103</sup> The main focus of the Claimant Commitment is to hold claimants responsible for doing everything within their power to actively seek paid work in return for receiving Jobseeker's Allowance from the state.<sup>104</sup> In order to receive Jobseeker's Allowance, new claimants are required to meet with a work coach to come up with and agree to a plan that outlines the claimant's work-related requirements under their Claimant Commitment.<sup>105</sup> The Commitments are regularly reviewed and a claimant's failure to comply with the requirements is subject to the various sanctions and reductions in awards discussed above.<sup>106</sup> The Claimant Commitment connects Jobseeker's Allowance and claimants' responsibilities as outlined in WRA 2012 and is currently in place in areas where Universal Credit has been implemented.<sup>107</sup>

In order to qualify for Jobseeker's Allowance, claimants must be: at least 18 years of age or older but below State Pension age (although there are some exceptions for 16 and 17 year olds); available and able to work; not a full-time student; living in England, Scotland, or Wales; actively seeking work; and working less than 16 hours a week.<sup>108</sup> Additionally, claimants attempting to receive income-based Jobseeker's Allowance must work less than twenty-four hours a week and have £16,000 or less in savings.<sup>109</sup> The amount of Jobseeker's Allowance a claimant qualifies for is partly age-related, with a claimant under the age of twenty-five being eligible for £56.80 per week, and a claimant twenty-five or older being eligible for £71.70 per week.<sup>110</sup> But the amount one qualifies for also depends on the claimant's particular circumstances. Also, claimants will only be permitted to receive

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100. Universal Credit Regulations, *supra* note 70, at 62-63.

101. *Id.* at 63.

102. *2010 to 2015 Government Policy*, *supra* note 43.

103. *Id.*

104. *2010 to 2015 Government Policy*, *supra* note 43, app. 4 ("Introducing the Jobseeker's Allowance Claimant Commitment").

105. *Id.*

106. *See supra* text accompanying note 92.

107. *2010 to 2015 Government Policy*, *supra* note 43.

108. Jobseeker's Allowance, *Eligibility*, GOV.UK, <https://www.gov.uk/jobseekers-allowance/eligibility> (last visited June 5, 2015).

109. *Id.*

110. The Jobseeker's Allowance Regulations 2013, SI 2013/378, art. 31 (Eng.), [http://www.legislation.gov.uk/uksi/2013/378/pdfs/uksi\\_20130378\\_en.pdf](http://www.legislation.gov.uk/uksi/2013/378/pdfs/uksi_20130378_en.pdf).

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Jobseeker's Allowance if they have made adequate contributions to the National Insurance, which is a change from the old welfare system.<sup>111</sup>

C. PART 3: OTHER BENEFIT CHANGES

1. *Housing Benefit and the "Bedroom Tax"*

Many claimants who received housing assistance under the old welfare system will have to adjust to the new system, which is comprised of several large-scale changes in terms of entitlement criteria and distribution. The changes discussed below were drafted in hopes of containing the Government's ever-growing Housing Benefit expenditure and putting social housing to better use.<sup>112</sup> As far as distribution goes, the Housing Benefit is now included in the single monthly Universal Credit payment and thus the Government will no longer pay claimant's housing benefit directly to their landlords as was done under the old welfare system.<sup>113</sup> The Government believes that giving the single monthly payment directly to claimants and placing the responsibility on them to pay their monthly rent to their landlord will replicate the monthly salary of someone in work and, in turn, help with the ultimate goal of transitioning claimants into work.<sup>114</sup>

WRA 2012 also introduced what has come to be known as the "Bedroom Tax," which provides the Government with the power to limit housing benefits based on new size criteria.<sup>115</sup> The Bedroom Tax applies to housing benefit claims by working-age claimants who live in the social rented sector and under the new criteria "households deemed to be under-occupying their . . . homes lose part of their housing benefit."<sup>116</sup> Upon losing part of their housing benefit, it is hoped that claimants will downsize to a space that more accurately fits their particular living needs, and in turn the large accommodation will become available for claimants currently living in overcrowded housing, or who are on social housing waiting-lists.<sup>117</sup> The new rules pertaining to accommodation size are intended to mirror the size criteria used to determine housing benefit entitlement for claimants in the private rented sector.<sup>118</sup> Thus, "the applicable maximum rent will be reduced by a national percentage rate depending on the number of spare bedrooms in the household."<sup>119</sup> The change in the policy relating to housing benefits is intended to increase incentives to

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111. *Id.* at art. 49.

112. Impact Assessment, Housing Benefit: Under Occupation of Social Housing, Dep't for Work & Pensions 1 (June 28, 2012), [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/214329/social-sector-housing-under-occupation-wr2011-ia.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/214329/social-sector-housing-under-occupation-wr2011-ia.pdf) [hereinafter Under Occupation of Social Housing].

113. Universal Credit Q&A, *supra* note 58, at 2.

114. Sue Ramsden, *Briefing: Welfare Reform Act 2012—Direct Payments*, NAT'L HOUSING FED'N 2 (Mar. 2012), <http://s3-eu-west-1.amazonaws.com/pub.housing.org.uk/Welfare%20Reform%20Act%202012%20-%20Direct%20payment%20briefing.pdf>.

115. Emily Bird, *Briefing: Size Criteria ('Bedroom Tax')*, NAT'L HOUSING FED'N 2 (May 2013), [http://s3-eu-west-1.amazonaws.com/pub.housing.org.uk/130516\\_Size\\_criteria\\_May\\_2013.pdf](http://s3-eu-west-1.amazonaws.com/pub.housing.org.uk/130516_Size_criteria_May_2013.pdf) [hereinafter Size Criteria].

116. *Id.*

117. Under Occupation of Social Housing, *supra* note 112, at 1.

118. *Id.* at 5.

119. *Id.*

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use available social housing as efficiently as possible and to incentivize social tenants and landlords to better match housing need to available accommodations.<sup>120</sup>

Starting in April 2013, the Bedroom Tax went into effect, meaning that working-age tenants who rent in the social rented sector no longer receive housing benefits for the cost of having a spare bedroom, but instead only receive support for housing costs proportionate to their household's needs.<sup>121</sup> The new size criteria regarding bedrooms permits one bedroom per person or per couple living within a household subject to the following exceptions: children of the same gender and under the age of sixteen are expected to share a bedroom; children under the age of ten are expected to share a bedroom regardless of their genders; "a disabled tenant or partner who needs a non-resident overnight carer is allowed an extra room;" approved foster parents who have fostered a child or became approved foster parents within the last twelve months are allowed an additional room; adult children who are serving in the military and are deployed will be treated as continuing to live at home; and severely disabled children are allowed to have their own room if they are unable to share a room with their siblings.<sup>122</sup> The Bedroom Tax will affect all claimants that have a spare bedroom, including: separated parents who share the responsibility of caring for their children, even if they were allotted an extra bedroom for this very reason; "couples who use their 'spare' bedroom when recovering from an illness or operation; [p]arents whose children visit but are not part of the household; [and d]isabled people including people living in adapted or specially designed properties."<sup>123</sup>

The changes to the housing benefit are expected to affect approximately 660,000 "working-age social tenants," which is roughly thirty-one percent of working-age claimants who receive housing benefits within the social rented sector.<sup>124</sup> The reduction in housing benefits based on the number of spare bedrooms claimants have "is a fixed percentage of the Housing Benefit eligible rent" and amounts to a fourteen percent reduction for claimants with one spare bedroom and a twenty-five percent reduction for claimants with two or more spare bedrooms.<sup>125</sup> Ultimately, the effect of this change in policy means that claimants who currently live in housing that is considered to exceed their housing needs will be required to either make up the difference between the rent and their new housing benefit entitlement or to downsize by moving to a smaller, less expensive accommodation.<sup>126</sup> This could prove to be a difficult ultimatum, because even though many landlords have voiced their support of assisting tenants in downsizing, "the [Department for Work and Pension]'s impact assessment admits there is a 'mismatch' between household size and the availability of suitable homes in the social sector for under-occupying claimants to downsize into."<sup>127</sup> At this point in time, it remains unclear how the new Bedroom Tax will fare and whether or not it will save the Government money while also decreasing housing overcrowding and shortages. On the one hand, the policy has thus far

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120. *Id.* at 6.

121. *2010 to 2015 Governmental Policy*, *supra* note 43, app. 3 ("Making Sure Housing Support is Fair & Affordable").

122. *Id.*

123. *Bedroom Tax*, NAT'L HOUSING FED'N, <http://www.housing.org.uk/policy/welfare-reform/bedroom-tax/> (last visited June 5, 2015).

124. *Id.*

125. *Id.*

126. *Under Occupation of Social Housing*, *supra* note 112, at 1.

127. *Size Criteria*, *supra* note 115, at 7.

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resulted in a reduction of approximately £500 million in welfare spending and the Government has stated that the policy “is freeing up housing stock and providing extra space for families in cramped accommodation;” however, citizens who have actually been affected by the bedroom tax policy “have lost around £14 per week, prompting protests that man were (sic) being forced into penury.”<sup>128</sup>

**D. PART 4: PERSONAL INDEPENDENCE PAYMENT**

The Personal Independence Payment (PIP) is a new benefit introduced by WRA 2012 that replaces the Disability Living Allowance (DLA) from the old welfare system.<sup>129</sup> The DLA was initially introduced in 1992 as a tax-free benefit “for children and adults who need[ed] help with personal care or mobility.”<sup>130</sup> But parts of the DLA were problematic, such as how complex it was to claim and the difficulty of ensuring that awards remained accurate over time.<sup>131</sup> Ultimately, DLA proved to be unsustainable due to the growing number of claimants and annual expenditures.<sup>132</sup> For example, the number of DLA claimants rose from approximately 2.5 million to 3.2 million in just nine years with the predicted expenditure on DLA for 2011-2012 set at £12.6 billion.<sup>133</sup> Also, the Government was concerned with the fact that DLA was perceived as a benefit for people who are unemployed and that receiving DLA seemed to lower the likelihood of the claimant becoming employed.<sup>134</sup>

PIP was introduced on April 8, 2013, and will be used in place of the of DLA benefit for claimants age sixteen to sixty-four who need assistance due to a disability or long-term health issue.<sup>135</sup> PIP is intended to be a more sustainable benefit than DLA, and it aims to ensure that claimants who experience the greatest obstacles in everyday life receive the necessary support to remain active members of society to the greatest extent possible.<sup>136</sup> The amount of PIP awarded to a claimant depends on the effect his disability has on his everyday life instead of depending on the specific type of disability he has.<sup>137</sup> Additionally, people can claim PIP regardless of whether or not they have a job and it is a benefit that is not subject to tax or a means-test.<sup>138</sup> In order to receive PIP, most claimants are required to attend an initial in-person consultation with an independent health professional, in

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128. Nigel Morris, *General Election 2015: Tory Minister Admits Bedroom Tax is ‘Not an Easy Sell’ on the Doorstep*, INDEP. (Apr. 30, 2015), <http://www.independent.co.uk/news/uk/politics/generalelection/general-election-2015-tory-minister-admits-bedroom-tax-is-not-an-easy-sell-on-the-doorstep-10216902.html>.

129. *2010 to 2015 Government Policy*, *supra* note 43.

130. *Id.*

131. *Id.*

132. *Disability Living Allowance Reform*, DEP’T FOR WORK & PENSIONS 1 (May 2012), [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/220176/dla-reform-wr2011-ia.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/220176/dla-reform-wr2011-ia.pdf).

133. *Id.*

134. *Id.*

135. *2010 to 2015 Government Policy*, *supra* note 43.

136. *Id.*

137. *Introducing Personal Independence Payment*, DEP’T FOR WORK & PENSIONS, <https://www.gov.uk/government/publications/2010-to-2015-government-policy-welfare-reform/2010-to-2015-government-policy-welfare-reform#appendix-6-introducing-personal-independence-payment> [hereinafter *Introducing PIP*].

138. *Id.*

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addition to regular follow-up reviews to ensure that claimants continue to receive the necessary support.<sup>139</sup>

PIP is made up of two components: (1) the daily living component, and (2) the mobility component.<sup>140</sup> A claimant's PIP entitlement can include either of the two components or a combination of both depending on their substantiated need.<sup>141</sup> There are two different rates of PIP entitlement: the standard rate and the enhanced rate.<sup>142</sup> In order to be entitled to the standard rate for the daily living component, the claimant's ability to perform daily living activities must be limited to some degree by the claimant's mental or physical condition.<sup>143</sup> Alternatively, in order to receive the enhanced rate for the daily living component, the claimant's ability to perform daily living activities must be severely limited by the claimant's mental or physical condition.<sup>144</sup> The daily living activities considered during the assessment include: preparing food; taking nutrition; managing therapy or monitoring a health condition; washing and bathing; managing toilet needs or incontinence; dressing and undressing; communicating verbally; reading and understanding signs, symbols, and words; engaging with other people face to face; and making budgeting decisions.<sup>145</sup> Additionally, to receive the standard or enhanced rate PIP for daily living activities or mobility activities, the claimant must meet the required period condition.<sup>146</sup>

To be entitled to the standard rate of PIP for the mobility component, the claimant's ability to perform mobility activities must be limited by the claimant's mental or physical condition.<sup>147</sup> But, to receive the enhanced rate of PIP for the mobility component, the claimant's ability to carry out mobility activities must be severely limited by the claimant's mental or physical condition.<sup>148</sup> During the individual claimant's assessment, the following mobility activities are considered: the claimant's ability to plan and follow a journey and the claimant's ability to move around (ability to walk).<sup>149</sup> Furthermore, when determining whether a potential claimant can perform a certain activity (daily living activities or mobility activities) the assessor must evaluate whether or not they can perform the activity "safely; to an acceptable standard; repeatedly; and within a reasonable time period."<sup>150</sup> These "reliability criteria" are intended to protect claimants in the assessment

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139. *Id.*

140. WRA 2012, *supra* note 1, at 57.

141. *Id.*

142. *Id.*

143. *Id.*

144. *Id.*

145. Social Security (Personal Independence Payment) Regulations 2013, SI 2013/377, arts. 18-21 (Eng.), [http://www.legislation.gov.uk/uksi/2013/377/pdfs/uksi\\_20130377\\_en.pdf](http://www.legislation.gov.uk/uksi/2013/377/pdfs/uksi_20130377_en.pdf) [hereinafter PIP Regulations].

146. WRA 2012, *supra* note 1, at 58-59. The claimant must meet the "required period condition" in order to receive PIP. To determine whether the claimant meets the "required period condition," two questions must be asked: (1) whether, as respects every time in the previous 3 months, it is likely that if the relevant ability had been assessed at that time that ability would have been determined to be limited or (as the case may be) severely limited by the person's physical or mental condition; and (2) whether, as respects every time in the next 9 months, it is likely that if the relevant ability were to be assessed at that time that ability would be determined to be limited or (as the case may be) severely limited by the person's physical or mental condition. *Id.*

147. *Id.* at 57-58.

148. *Id.* at 58.

149. PIP Regulations, *supra* note 145, at 21-22.

150. The Social Security (Personal Independence Payment) (Amendment) Regulations 2013, SI 2013/455, art. 1 (Eng.), [http://www.legislation.gov.uk/uksi/2013/455/pdfs/uksi\\_20130455\\_en.pdf](http://www.legislation.gov.uk/uksi/2013/455/pdfs/uksi_20130455_en.pdf).

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process when determining their level of entitlement.<sup>151</sup> The PIP Regulations specify that the weekly rates for the daily living component are as follow: £53.00 for the standard rate and £79.15 for the enhanced rate.<sup>152</sup> The weekly rates for the mobility component are £21.00 for the standard rate and £55.25 for the enhanced rate.<sup>153</sup> PIP is being introduced in stages in order to ease prior DLA claimants into the new system by re-assessing existing DLA claimants for the new PIP award.<sup>154</sup> Although PIP claims were first introduced in April 2013 in select areas, the Government does not expect to be able to contact everyone who needs to switch from DLA to PIP until late 2017.<sup>155</sup>

E. PART 5: SOCIAL SECURITY—INCREASED PENALTIES FOR BENEFIT FRAUD

In addition to facilitating a massive reform of benefits, WRA 2012 also introduced harsher penalties for benefit fraud.<sup>156</sup> The harsher penalties and sanctions for benefit fraud are the result of penalties under the old welfare system being too lenient and not acting as a harsh enough deterrent for repeat offenders.<sup>157</sup> The Government assessed the annual price tag of welfare benefit fraud and error to be £3.3 billion, or £5.3 billion when tax credits are included in the calculation.<sup>158</sup> The Act outlines under what circumstances benefits can be either reduced or stopped entirely as a penalty for claimants who abuse the welfare system by committing benefit fraud.<sup>159</sup>

Claimants are penalized under WRA 2012 if they are convicted of benefit fraud or accept an administrative penalty, which is a financial penalty that the Department for Work and Pensions (DWP) offers to claimants as an alternative to prosecution.<sup>160</sup> The following are examples of the new benefit fraud penalties: claimants who are convicted of a benefit fraud offense lose their benefits for thirteen weeks (instead of four weeks under the old system); claimants who commit a second benefit fraud offense within five years and are convicted lose their benefits for twenty-six weeks; claimants who commit and are convicted of a third benefit fraud offense within five years of the second and within ten years of the first lose their benefits for three years; if a claimant's benefit fraud offense "involves serious organised fraud or identity fraud it will result in an immediate loss of benefit penalty for 3 years;" and if an offense results in an administrative penalty instead of a conviction then the claimant loses their benefits for four weeks.<sup>161</sup> Under WRA 2012, the new minimum administrative penalty is "£350 for benefit fraud or 50 [percent] of the

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151. Introducing PIP, *supra* note 137.

152. PIP Regulations, *supra* note 145, at 9.

153. *Id.* at 9-10.

154. Introducing PIP, *supra* note 137.

155. *Id.*

156. Executive Summary, *supra* note 2, at 4.

157. *Fraud Penalties and Sanctions*, DEP'T FOR WORK & PENSIONS 1 (Nov. 23, 2011), [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/220187/fraud-penalties-and-sanctions-wr2011-ia.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/220187/fraud-penalties-and-sanctions-wr2011-ia.pdf).

158. *Id.* at 7.

159. *Guidance: Loss of Benefit as a Penalty for Benefit Fraud*, DEP'T FOR WORK & PENSIONS (Mar. 27, 2013), <https://www.gov.uk/government/publications/loss-of-benefit-as-a-penalty-for-benefit-fraud/loss-of-benefit-as-a-penalty-for-benefit-fraud> [hereinafter *Guidance: Benefit Fraud*].

160. *Id.*

161. *Id.*

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amount overpaid, whichever is greater up to a maximum of £2,000.”<sup>162</sup> Also, if claimants are negligent in ensuring their benefit claims remain accurate according to their changing circumstances, they can receive a new civil penalty of £50 that is meant to promote personal responsibility for maintaining the accuracy of their benefit claims.<sup>163</sup>

There are categories of benefits that can and cannot be reduced or stopped as a penalty for benefit fraud.<sup>164</sup> Additionally, some benefits cannot be stopped or reduced as a penalty for benefit fraud unless they are a part of the actual benefit fraud offense.<sup>165</sup> Several categories of benefits that cannot be reduced or stopped even if they are involved in a fraud offense, include: diffuse mesothelioma scheme, health in pregnancy grant, maternity allowance, pneumoconiosis (worker's compensation), statutory adoption pay, statutory maternity pay, statutory paternity pay, and statutory sick pay.<sup>166</sup> Ultimately the harsher penalties and the simplification of the welfare system via WRA 2012 are expected to reduce the amount of claimant and state errors in the benefit distribution, thus limiting the ways in which one can commit benefit fraud.<sup>167</sup> The Government hopes that the new measures intended to battle fraud and error will significantly lower the level of fraud and error in the welfare system, which was at three percent under the old welfare system.<sup>168</sup> The plan focuses on prevention, detection, correction, punishment, and deterrence.<sup>169</sup> The Government has also requested the assistance of citizens to report possible benefit frauds, resulting in nearly 180,000 calls to the Benefits Fraud Hotline in 2013-14.<sup>170</sup> During that same period, the Government prosecuted roughly 10,000 people for benefit fraud.<sup>171</sup> The Government predicts that reduced fraud and overpayments and a better ability to monitor changes in claimants' income using the Government's "Real Time Information" system will contribute to savings of approximately £2.6 billion each year once Universal Credit is fully implemented.<sup>172</sup>

### III. Support and Opposition of WRA 2012

The government's provision of welfare has always been a hotbed of political and social controversy not only in the United Kingdom, but in many countries worldwide. Welfare is something that affects everyone in numerous different ways, positive and negative. It is something that has an impact on multiple aspects of everyday life including the economy, healthcare, employment, and society as a whole. Considering all of the factors that collide to make welfare such a controversial issue, it is not surprising to find that there are pas-

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162. *Fraud Penalties and Sanctions*, *supra* note 157, at 1.

163. *Id.*

164. Guidance: Benefit Fraud, *supra* note 159.

165. *Id.*

166. *Id.*

167. *Tackling Fraud and Error in the Benefit and Tax Credits Systems*, DEP'T FOR WORK & PENSIONS & HM REVENUE & CUSTOMS 47 (Oct. 18, 2010), [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/214334/tackling-fraud-and-error.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/214334/tackling-fraud-and-error.pdf).

168. *Id.*

169. *Id.* at 47-48.

170. *Tackling Fraud, Error and Debt in the Benefits and Tax Credit System*, HM Gov. 9 (Mar. 2015), [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/417718/tackling-fraud-error-debt-benefit-tax-system.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/417718/tackling-fraud-error-debt-benefit-tax-system.pdf).

171. *Id.*

172. *Id.* at 5-6.

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sionate voices of both support for and opposition to WRA 2012, the biggest welfare reform the United Kingdom has experienced in decades. The opposing sides appear to be largely identified by political affiliation, as evidenced by reports that “[t]he opposition Labor party, political pundits and the media have carried a relentless campaign against [WRA 2012] since it was passed by parliament.”<sup>173</sup> Both viewpoints are discussed below along with the salient points of contention.

A. PROPONENTS’ ARGUMENTS

Supporters of WRA 2012 hail the Act as a clear step in the right direction in terms of simplifying the benefits system by introducing the Universal Credit and incentivizing those who are dependent on benefits, but who are able to go out and find gainful employment.<sup>174</sup> Prime Minister David Cameron stated that the Act is the “biggest welfare revolution in over 60 years” and that “[t]hese reforms will change lives for the better, giving people the help they need, while backing individual responsibility so that they can escape poverty, not be trapped in it.”<sup>175</sup> He further contended that whereas “[p]ast governments have talked about reform, while watching the benefits bill sky-rocket and generations languish on the dole and dependency[, t]his Government is delivering it.”<sup>176</sup> His statement illustrates the standpoint of the Conservative government that crafted WRA 2012 as a key piece of its austerity program aimed at getting the budget under control after decades of a government controlled by the Labour party led to a culture dependent on welfare benefits, which in turn wreaked havoc on Britain’s pocketbook.<sup>177</sup>

Public polls have shown that toughness on welfare is growing evermore popular in Britain; for example, “[i]n 1993 only one-fifth believed that a less generous system would encourage people to stand on their own two feet[, but b]y 2012 more than half did so.”<sup>178</sup> Supporters recognize that WRA 2012 is part of a larger, long-term economic plan to cut the swelling deficit and secure Britain’s future, in part, by reforming the welfare state.<sup>179</sup> Unlike the Labour government of the past that “ratcheted up welfare bills by an enormous 60% resulting from money paid out to pacify [claimants] . . . with no incentive to aspire for a better life,” this government believes that “[w]elfare reform is fundamentally about opportunity and life change . . . [and] cutting the cost of social failure by transforming the

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173. Iftikhar Tariq Khanzada, *Bedroom Tax Controversy in UK*, LIBERTY VOICE (Nov. 12, 2013), <http://guardianlv.com/2013/11/bedroom-tax-controversy-in-uk/>.

174. 2010 to 2015 *Government Policy*, *supra* note 43.

175. Jason Groves, *Historic Welfare Reform ‘To End Culture of Benefits Being Seen as an Acceptable Alternative to Work’ Finally Becomes Law*, DAILY MAIL (last updated Mar. 2, 2012, 3:59 PM), <http://www.dailymail.co.uk/news/article-2108757/Welfare-Reform-Bill-end-culture-benefits-seen-acceptable-alternative-work.html>.

176. *Id.*

177. Castle, *supra* note 40.

178. *Welfare Reform: Chipping Away*, ECONOMIST (Apr. 6, 2013), <http://www.economist.com/news/britain/21575778-sweeping-changes-welfare-system-many-them-loudly-opposed-are-less-radical-they>.

179. See generally HM Gov., THE COALITION: OUR PROGRAMME FOR GOVERNMENT (2010), [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/78977/coalition\\_programme\\_for\\_government.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/78977/coalition_programme_for_government.pdf) (stating that the most urgent task facing the government is deficit reduction and acknowledging that welfare reform is an integral part of the overall effort to reduce the deficit and create sustainable economic growth).

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life chances and outcomes of those on benefits.”<sup>180</sup> Ultimately, the Act is aimed at “restoring fiscal stability, and restoring lives at the same time.”<sup>181</sup> Iain Duncan Smith, Secretary of State for Work and Pensions and the man behind WRA 2012, stated that “there is no kindness in a benefits system that traps people, leaving them in a twilight world where life is dependent on what is given to you, rather than what you are able to create.”<sup>182</sup> He further noted that just as “[t]hose in work have obligations to their employer; so too claimants [have] a responsibility to the taxpayer: in return for support, and where they are able, they must do their bit to find work.”<sup>183</sup> But despite all of the support the Act has garnered and positive change it promises, there is still fierce debate and negative opinions detracting from the massive reform effort.

**B. OPPONENTS' ARGUMENTS**

The opponents of WRA 2012 tend to base their arguments against the Act on certain provisions that will arguably have a negative impact on the categories of society that rely on welfare benefits the most, such as households with children, single parents, and the disabled.<sup>184</sup> One of the arguments is that the benefit cap will cause more children to slip into poverty as a result of their unemployed parents receiving a reduction in benefits or losing benefits entirely.<sup>185</sup> Prime Minister David Cameron responded to this argument by contending that “the greatest suffering [is] endured by children growing up in workless households . . . [a]nd one of the reasons why in some households no one is working is because welfare has become so available.”<sup>186</sup> But opponents further note that “[i]n the case of key groups like working lone parents . . . there are still concerns about the risks of leaving the relative safety of out-of-work benefits to enter the world of work.”<sup>187</sup> For example, they argue that “financial incentives alone may not be sufficient to overcome the inherent difficulties that [they] may . . . encounter when trying to balance work and family commitments.”<sup>188</sup>

One of the opponents' more tenable arguments against WRA 2012 relates to the “Bedroom Tax” size criteria, which restricts the ability of social housing tenants to have a spare bedroom.<sup>189</sup> There are concerns that even if tenants want to downsize instead of paying

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180. Iain Duncan Smith, U.K. Sec'y of State for Work and Pensions, *A Welfare State Fit for the 21st Century*, Speech at the Centre for Social Justice, London (Jan. 28, 2014), <https://www.gov.uk/government/speeches/a-welfare-state-fit-for-the-21st-century>.

181. *Id.*

182. *Id.*

183. *Id.*

184. Christopher Read, *UK Welfare Reform: Further Than She Ever Dared!*, NEW LEFT PROJECT (Nov. 2, 2012), [http://www.newleftproject.org/index.php/site/article\\_comments/uk\\_welfare\\_reform\\_further\\_than\\_she\\_ever\\_dared](http://www.newleftproject.org/index.php/site/article_comments/uk_welfare_reform_further_than_she_ever_dared) [hereinafter *Further Than She Ever Dared*].

185. Robert Winnett & James Kirkup, *David Cameron: 'Don't Complain About Welfare Cuts, Go and Find Work'*, TELEGRAPH (Jan. 23, 2012, 9:30 PM), <http://www.telegraph.co.uk/news/politics/9034237/David-Cameron-Dont-complain-about-welfare-cuts-go-and-find-work.html>.

186. *Id.*

187. Keith Puttick, *'21st Century Welfare' and Universal Credit: Reconstructing the Wage-Work-Welfare Bargain*, 41 INDUS. L.J. 236, 238 (July 2012).

188. *Id.*

189. *Welfare Reform Act 2012*, LOC. DEMOCRACY THINK TANK (Mar. 27, 2012), <http://www.lgiu.org.uk/2012/03/27/welfare-reform-act-2012/>.

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the extra fee to continuing living in their home with a spare room, there could be a shortage of suitably sized accommodations due to the preexisting housing shortages.<sup>190</sup> Consequently, the opposition argues that the strict enforcement of the Bedroom Tax is more likely to increase hardships for benefit claimants, instead of reducing them and facilitating the efficient use of public housing as supporters claim it will.<sup>191</sup> They further contend that the “‘Bedroom Tax’ will result in reallocation of the masses all over Britain because of the scarcity of one bedroom properties . . . adding more to the woes of the already affected sections of the population.”<sup>192</sup> Also, the provision of the Bedroom Tax that requires children to share a room who are the same gender and over ten years of age but under sixteen, could arguably have a negative impact as the family would have to move to a larger home when the children turn sixteen or remain in cramped housing.<sup>193</sup>

Another highly contested change related to housing benefits is that most claimants’ housing benefits will be included in the Universal Credit lump sum given to them each month, instead of the government paying their housing benefit directly to landlords. The National Housing Federation argues that direct payment to landlords should remain an important option available to tenants because direct payments help reduce the risk of people losing their homes for failure to pay their rent and provide social housing landlords with financial security.<sup>194</sup> Furthermore, a considerable percentage of social housing tenants do not even have bank accounts, effectively rendering them unable to pay their landlords by direct debit.<sup>195</sup> A research study funded by the National Housing Federation revealed that the implementation of Universal Credit stands to compromise social tenants’ financial wellbeing, noting that “[s]ome 35% of social tenants on housing benefit, rising to 50% of those who have missed rental payments, are not confident that they can keep up rental payments if they receive their rent direct.”<sup>196</sup> Ultimately, the report found that “86% of social tenants believe ‘strongly’ that it is better for Housing Benefit to be paid direct to the landlord so that they are secure in their home.”<sup>197</sup> This research sheds light on the complexity involved in the ongoing implementation of WRA 2012, in terms of the various risks it poses to the financially vulnerable claimants and the need for the government to provide adequate support in the transition period.

In response to the Act’s goal of incentivizing those dependent on welfare to find paid work or increase their hours, several opposition groups, including charities, have negatively critiqued the welfare reforms by asserting “they will be deeply counterproductive if they are not matched by government action to create jobs, expand childcare provision or invest in social and affordable housing.”<sup>198</sup> One e-petition calling on Parliament to repeal

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190. *Id.*

191. Khanzada, *supra* note 173.

192. *Id.*

193. *Id.*

194. *Claimant Support under Universal Credit*, NAT’L HOUSING FED’N, <http://www.housing.org.uk/policy/welfare-reform/universal-credit/support-needs-under-universal-credit/> (last visited June. 5, 2015).

195. *Id.*

196. *Optimizing Welfare Reform Outcomes for Social Tenants: Understanding the Financial Management Issues for Different Tenant Groups*, POLICIS 3 (Oct. 11, 2012), <http://s3-eu-west-1.amazonaws.com/pub.housing.org.uk/Policis%20-%20Welfare%20reform%20and%20social%20tenants%20exec%20summary.pdf>.

197. *Id.* at 2.

198. Further Than She Ever Dared, *supra* note 184.

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WRA 2012 garnered almost 17,000 signatures.<sup>199</sup> The campaign claimed that “[t]he Act vindictively targets all benefit claimants disproportionately causing millions of people financial hardship, poverty, and at risk of starvation and homelessness.”<sup>200</sup> The risk that the Act poses to the United Kingdom’s homeless population has been addressed by several organizations; for example, Homeless Link, which is involved in advocating for the homeless and fashioning favorable policies aimed at protecting and enabling them.<sup>201</sup>

Homeless Link released a report documenting how prepared (or unprepared) the local authorities are for WRA 2012 in terms of its implementation and enforcement.<sup>202</sup> The report concluded that “local authorities are really struggling with the additional burdens placed on them by administering the majority of these changes, at a time when they are experiencing unprecedented cuts to their budgets,” thus causing them to have to prioritize determining which groups to allocate their ever-thinning resources to, instead of being able to adequately support the entire community.<sup>203</sup> They further noted that “[t]hese challenges must be recognized and local authorities supported if we are to ensure that the welfare reform changes do not lead to increased homelessness, indebtedness and greater vulnerabilities.”<sup>204</sup> While the opposition’s arguments are certainly not without merit, many of their worries relating to the more vulnerable sections of the population, such as children and the disabled, were taken into account by the government during the drafting of the Act and are reflected in the final product. Even so, the total impact of the Act on these vulnerable populations is just now beginning to be assessed, considering all of the new provisions are not expected to be fully implemented until 2017.<sup>205</sup>

#### **IV. Impact and Implications of WRA 2012**

As WRA 2012 continues to be implemented in multiple stages throughout the United Kingdom, many public and private organizations are conducting research into the expected and actual impact of the Act on the economy and various sectors of society. Another area of research is focused on the impact of the Act on a local level and assessing what challenges local authorities are facing in implementing the reform and what additional measures may be needed to help ease the transition. Although preliminary findings are discussed below, there is a general consensus that it is still too early to gain a fully accurate understanding of what the fallout of WRA 2012 will be.

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199. *Repeal the Welfare Reform Act 2012*, UK GOV. & PARLIAMENT, <http://epetitions.direct.gov.uk/petitions/41600> (Nov. 12, 2013). See *Government Response to “Repeal the Welfare Reform Act 2012” Petition*, <https://www.causes.com/posts/649882-government-response-to-repeal-the-welfare-reform-act-2012-petition> (last visited July 24, 2015).

200. *Repeal the Welfare Reform Act 2012*, *supra* note 199.

201. *About Us*, HOMELESS LINK, <http://www.homeless.org.uk/about-us> (last visited June 5, 2015).

202. *How Prepared Are Local Authorities for Welfare Reform?*, HOMELESS LINK (Mar. 2013), <http://www.homeless.org.uk/sites/default/files/siteattachments/Welfare%20reform%20impact%20on%20councils%202013%20FINAL.pdf>.

203. *Id.* at 14.

204. *Id.*

205. Phil Thompson & Ed Hammond, *Welfare Reform*, CTR. FOR PUB. SCRUTINY 10 (Sept. 2012), [http://www.cfps.org.uk/domains/cfps.org.uk/local/media/downloads/2012\\_09\\_10\\_welfare\\_reform\\_pb\\_final.pdf](http://www.cfps.org.uk/domains/cfps.org.uk/local/media/downloads/2012_09_10_welfare_reform_pb_final.pdf).

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A. ECONOMIC IMPACT

1. *Universal Credit: Costs of Implementation*

The National Audit Office (NAO) conducted a report to assess the early progress of Universal Credit and it revealed that the Department for Work and Pensions (DWP) had to revise the timing and scope of the national roll-out of the program due to major issues with the IT system needed to process new claims.<sup>206</sup> The NAO stated that “delays to roll-out will reduce the expected benefits of reform.”<sup>207</sup> The report’s key conclusion was that the Universal Credit program had not “achieved value for money” in its early stages, largely due to the “delayed rollout[,] . . . weak control of the program[,]” and its inability to gauge “the value of the [IT] systems it spent more than £300 million to develop.”<sup>208</sup> The DWP originally estimated the total amount needed to implement Universal Credit to be £2.4 billion, but more recently stated that it is now expecting to spend closer to £1.8 billion with £600 million less actually needed for IT systems development.<sup>209</sup> Ultimately, the Department estimates that the initial net benefit from Universal Credit will be in excess of £38 billion from its start to 2022-23, and then £7 billion annually from that point on.<sup>210</sup>

But it might be awhile before the full impact and savings provided by Universal Credit are realized. The IT systems needed to facilitate a nationwide rollout of Universal Credit are still under development and “[r]ecipients are currently using a system that can only deal with simple cases, such as new claims for unemployment benefit from people without dependents.”<sup>211</sup> The DWP’s new approach to implementing Universal Credit “is a twin-track strategy where the DWP will continue to overhaul Universal Credit’s flawed digital service while rolling out a live IT system.”<sup>212</sup> The new digital service is expected to be implemented in Summer 2015 and its scalability to be tested in November 2016, with hopes of it eventually replacing the current live IT system by December 2017.<sup>213</sup> But, some still have doubts as to the predicted functionality of the new digital service and the economic fallout if it fails; for example, the NAO is critical of the DWP’s “lack of a backup plan . . . warning that if the digital service proves unfeasible, using current live service systems instead of digital systems would cost £2.8 billion more in staff expenses.”<sup>214</sup> Monitoring of the Universal Credit rollout is ongoing and it is still in its early stages, thus research on its impact is still in the beginning stages.

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206. NAT’L AUDIT OFFICE, *UNIVERSAL CREDIT: EARLY PROGRESS*, 2013-14, HC 621, at 7.

207. *Id.*

208. *Id.* at 9.

209. Alex Forsyth, *Universal Credit Benefit Roll-out ‘£600m Under Budget,’* BBC (Feb. 15, 2015), <http://www.bbc.com/news/uk-politics-31476172>.

210. *UNIVERSAL CREDIT: EARLY PROGRESS*, *supra* note 206, at 5.

211. Neville, *supra* note 49.

212. Joe Curtis, *UK Government Kicks-off Universal Credit Roll Out*, IT PRO (Feb. 17, 2015), <http://www.itpro.co.uk/government-it-strategy/24063/uk-government-kicks-off-universal-credit-roll-out>.

213. *Id.*

214. *Id.*

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2. *Costs of Direct Payment to Claimants*

Initial data from one of the Government's Universal Credit pilot areas revealed that some claimants are having trouble with the new system in which they receive a single direct monthly payment and are thus required to manage the money and pay their landlord themselves, as opposed to the old system where the Government paid the housing benefit to the landlord directly.<sup>215</sup> The pilot program in the London borough of Southwark revealed the following results: rent arrears for tenants receiving direct payments were nine percent higher than when the payments were going directly to the landlord; thirty-five percent of tenants who were eligible to receive direct payments did not for various reasons, including not having a bank account; due to arrears, fifteen percent of tenants receiving direct payments were ultimately switched back to direct payment to landlords; direct payment to tenants led to increased administration costs in excess of £400,000 for local authorities; and only 1,001 tenants of the 1,999 in the project were still receiving direct payment by the end of March 2013.<sup>216</sup> Prior to implementing the Direct Payment system, the Southwark tenants were offered various services to include support with banking, budgeting, and debt management, but hardly any tenants took advantage of these services.<sup>217</sup> The report revealed that, going forward, there needs to be a better understanding of how to assist tenants in avoiding rent arrears and what can be changed in the switch to the Direct Payment system in order to minimize landlords' risk of substantial loss and tenants' risk of eviction. Thus, the switch to Direct Payment is still limited to pilot projects and has not been nationally implemented yet.

3. *Benefit Cap Yields Savings*

One of the main components of WRA 2012 that is a key part of the government's long-term plan to economic recovery is the benefit cap.<sup>218</sup> As of February 2015, the DWP published a report indicating that "[t]he benefit cap is providing a clear incentive to work, with an average of 200 people every week making the choice to move into work or stop claiming Housing Benefit."<sup>219</sup> Prior to the benefit cap, "300 of the highest claiming families got over £9 million in benefits every year" and some benefit claims were equal to a salary of upwards of £74,000.<sup>220</sup> Since the cap was implemented, more than 55,300 households experienced a cap on their benefits, meaning that they were no longer allowed to obtain a benefit award in excess of what the average working family earns.<sup>221</sup> Although early data seems to indicate that the benefit cap is proving successful at reducing welfare

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215. See generally *Direct Payment Demonstration Project: Learning and Payment Figures*, DEP'T FOR WORK & PENSIONS (May 2013), [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/228925/direct-payment-demo-figures-may-2013.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/228925/direct-payment-demo-figures-may-2013.pdf).

216. *Id.*

217. *Id.*

218. Press Release, Dep't for Work & Pensions, *Benefit Cap: Over 9,000 of the Highest Benefit Claimers Find Jobs or Cut Claim* (Mar. 6, 2014), <https://www.gov.uk/government/news/benefit-cap-over-9000-of-the-highest-benefit-claimers-find-jobs-or-cut-claim>.

219. Press Release, Dep't for Work & Pensions, *Benefit Cap: 200 People into Work or Off Housing Benefit Every Week* (Feb. 5, 2015), <https://www.gov.uk/government/news/benefit-cap-200-people-into-work-or-off-housing-benefit-every-week>.

220. *Id.*

221. *Id.*

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spending and spurring employment, the benefit cap has also been met with considerable opposition, including a legal challenge that made it to the U.K.'s highest court.

On March 18, 2015, the Supreme Court of the United Kingdom upheld the benefit cap as lawful,<sup>222</sup> dismissing "a challenge that the benefit cap was in breach of the European Convention on Human Rights."<sup>223</sup> In response to this victory, Secretary Iain Duncan Smith said, "I am delighted that the country's highest court has agreed with this government and overwhelming public opinion that the benefit cap is right and fair."<sup>224</sup> Current estimates indicate that the benefit cap will save approximately £225 million over a two-year period.<sup>225</sup>

#### 4. *Rising Employment Rate*

The employment rate in the United Kingdom has been steadily rising, recently reaching "an all-time high of 73.5%" as of May 2015.<sup>226</sup> More than half a million people are working as compared to the previous year, resulting in unemployment dropping to 5.5 percent.<sup>227</sup> Furthermore, since 2010, two million more people are employed and "the number of people claiming the main out-of-work benefits has fallen by one million."<sup>228</sup> Priti Patel, the U.K.'s Employment Minister, said "[o]ur long-term economic plan is creating a better, more prosperous future for Britain, with employment at an all-time high and more women in work than ever before."<sup>229</sup> The United Kingdom is currently experiencing its "largest annual fall in long-term unemployment in 17 years" and its "joint highest employment rate for women," as evidenced by their employment rate of 68.6 percent.<sup>230</sup> As the employment rate continues to rise, more jobs are also being created with the number of open positions increasing to 735,000.<sup>231</sup> Employment Minister Esther McVey stated that "[w]ith employment continuing to increase, it's clear that the government's long-term plan to build a stronger, more secure economy is helping businesses create jobs and get people into work."<sup>232</sup> Although the rising employment rate is promising and initial savings attributed to the various provisions of WRA 2012 are generally positive, it is still too early to gain a clear understanding of the Act's total economic impact. As with any reform of this scale, there are bound to be substantial costs associated

222. *R v. Secretary of State for Work and Pensions*, [2015] UKSC 16, [2014] EWCA Civ 156, <https://www.supremecourt.uk/cases/docs/uksc-2014-0079-judgment.pdf>.

223. Press Release, Dep't for Work & Pensions, Supreme Court Finds in Favour of Benefit Cap (Mar. 18, 2015), <https://www.gov.uk/government/news/supreme-court-finds-in-favour-of-benefit-cap>.

224. *Id.*

225. *Benefit Cap: 200 People into Work or Off Housing Benefit Every Week*, *supra* note 219.

226. Press Release, Dep't for Work & Pensions, Priti Patel: Employment at an All-Time High, Creating a More Prosperous Future for Britain (May 13, 2015), <https://www.gov.uk/government/news/priti-patel-employment-at-an-all-time-high-creating-a-more-prosperous-future-for-britain>.

227. *Id.*

228. *Id.*

229. *Id.*

230. *Id.*

231. Press Release, Dep't for Work & Pensions, 600,000 Fewer Workless Households Since 2010: Workless Households Now Lowest in a Decade (Mar. 24, 2015), <https://www.gov.uk/government/news/600000-fewer-workless-households-since-2010-workless-households-now-lowest-in-a-decade>.

232. Press Release, Dep't for Work & Pensions, Record-Breaking Numbers of Women in Work as Employment Continues to Rise (Feb. 19, 2014), <https://www.gov.uk/government/news/record-breaking-numbers-of-women-in-work-as-employment-continues-to-rise>.

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with initial implementation, but only time will reveal whether the Government's predictions, regarding the substantial long-term savings the Act will provide, will come to fruition.

**B. SOCIAL IMPACT**

Due to its sheer size, WRA 2012 is bound to have a significant impact on multiple sectors of the population, including benefit claimants, local authorities charged with implementing the reforms, and others involved in providing welfare-related services. The large scale of Universal Credit will likely require a comprehensive evaluation using multiple approaches over the lifetime of the policy, including on-going monitoring, reviews of implementation, and long-term assessment of impacts on different segments of claimants. The most recent statistics published by the DWP revealed the following findings: between April 2013 and May 7, 2015, a total of 99,310 people made a claim for Universal Credit; between April 29, 2013, and April 9, 2015, a total of 60,800 people started receiving Universal Credit; sixty-nine percent of the starters were males and approximately fifty percent were under twenty-five years old.<sup>233</sup> Furthermore, approximately thirty-one percent of those who started receiving Universal Credit were employed and roughly sixty-nine percent were unemployed.<sup>234</sup> Aside from these initial statistics, at this stage, much of the information available relating to the implementation of WRA 2012 and its impact is based on predictions and extrapolating from knowledge of the population receiving welfare benefits.

**1. Risks to Vulnerable Populations**

The following sectors of the population have been identified as being at risk or vulnerable and will likely be the groups most heavily impacted by the Act: families with no working adult; "working-age recipients of disability related benefits who are in the process of being reassessed as part of [the shift to PIP]"; large families with many children; and families living in social housing homes who are deemed to be "under-occupying" their homes.<sup>235</sup> The risks facing these groups include: greater financial hardship as a result of reduced household income due to the Benefit Cap; homelessness for tenants unable to keep up with rent payments, or the potential for a housing shortage within their size criteria; and families forced to relocate as a result of the new Bedroom Tax.<sup>236</sup> Additional fallout from the welfare changes could include increased stress within families, crime and anti-social behavior, depression, neglect, poverty, and worsening child health.<sup>237</sup> As noted, these are all merely examples of possible negative outcomes that will ultimately depend on a variety of factors involved in the implementation of WRA 2012. Another group experiencing a substantial impact includes local authorities who the Government

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233. *Universal Credit Statistics: Official Experimental Universal Credit Statistics and How the Department Will Manage the Release of Further Statistics*, DEP'T FOR WORK & PENSIONS (Sept. 5, 2013), <https://www.gov.uk/government/collections/universal-credit-statistics#how-we-are-evaluating-universal-credit>.

234. *Id.* at 5.

235. *Welfare Reform*, ENFIELD COUNCIL 2 (updated Nov. 2013), [http://www.enfield.gov.uk/healthandwellbeing/downloads/file/56/welfare\\_reform](http://www.enfield.gov.uk/healthandwellbeing/downloads/file/56/welfare_reform) [hereinafter Enfield Council].

236. *Id.*

237. *Id.* at 2-3.

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has charged with the duty of implementing the various provisions of the Act on the local level.

*2. Challenges of Implementation Faced by Local Authorities*

The implementation of the welfare reform is largely taking place on a local level and several studies have been conducted to address the potential challenges local authorities are expected to face and recommendations of what they can do to prepare. The Communities and Local Government Select Committee conducted one such report and made the following key findings and recommendations: (1) the Government should do more to keep the public and claimants informed with regard to the national aspects of the welfare changes to include the “scale, timetable, and where to obtain advice;” (2) in light of new burdens, the Government needs to work with the Local Government Association to determine what the total impact of implementing the reform will be on the resources of local authorities; (3) housing associations and local authorities are concerned about increased costs commensurate with the need to provide support and information to tenants regarding Direct Payments and Universal Credit; (4) there are substantial concerns regarding the IT systems needed to implement the new program due to the fact that “the systems for fraud detection within Universal Credit” are still in the developmental stage even though the program is already being implemented.<sup>238</sup> In addition to these four key findings, the Communities and Local Government Select Committee also made various specific recommendations. The report highlighted the need for “close cooperation between the DWP and the [Department for Communities and Local Government]” as the welfare changes are rolled out.<sup>239</sup>

Many of the welfare changes are being implemented on the local level and thus local authorities are still in the process of deciding “how they [will] operate local schemes.”<sup>240</sup> The Government has provided local authorities with guidance and advice in this area pertaining to the following issues: work incentives, administration of support within the council tax system, local authorities’ responsibilities relating to vulnerable groups, the transition grant, and the default scheme for the distribution of Universal Credit.<sup>241</sup> In light of the delayed national rollout of Universal Credit and other components of the reform, local authorities also stress the need for certainty regarding the timetable during which the reform changes are expected to be implemented and the need for the Government to provide them with clear guidance in advance of implementation dates.<sup>242</sup>

The Centre for Local Economic Strategies (CLES) conducted a study in conjunction with the Manchester City Council in which they explored the prospective impacts of WRA 2012 on individuals, certain groups of the population, and particular geographic

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238. SEC’Y OF STATE FOR COMMUNITIES AND LOCAL GOVERNMENT, THE GOVERNMENT RESPONSE TO THE COMMUNITIES AND LOCAL GOVERNMENT SELECT COMMITTEE REPORT: IMPLEMENTATION OF WELFARE REFORM BY LOCAL AUTHORITIES 1, 2, 4, June 2013, [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/205630/130603\\_Final\\_SC.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/205630/130603_Final_SC.pdf).

239. *Id.* at 5.

240. *Id.* at 6.

241. *Id.*

242. *Id.* at 7.

areas within Manchester.<sup>243</sup> The research focused on three main types of impacts likely to be affected by the Act: place impacts, service impacts, and people impacts.<sup>244</sup> In terms of place impacts, the report noted that the impact of the reforms is expected to have the greatest effect on "areas with higher concentrations of benefit claimants."<sup>245</sup> In terms of service impacts, the research predicted an increased demand for various services involving advice regarding finance, debt, benefits, emergency everyday living services, and health services.<sup>246</sup> But, the report also noted that the expected increased need for these services, as the Act is rolled out, will be challenging for local authorities due to decreases in funding for these types of services.<sup>247</sup> In response to these predicted impacts, the report explained the various measures the local authorities are taking to make the transition smoother and to minimize negative fallout. These efforts include: cross-departmental coordination, providing communities with advice and support, training for staff in the public sector and voluntary and community sector, partnerships with local housing authorities, and employment support and job creation.<sup>248</sup>

This is just an overview of the preliminary findings regarding the implementation and impact of WRA 2012, with the data currently available barely scratching the surface of what the true impact of this colossal reform will be. As one local council stated, "[t]he Government's program[] of welfare reform is without precedent and its outcomes at national, regional and local level are impossible to estimate."<sup>249</sup> The Council further noted that, "[t]hey will depend upon the personal motivations of individuals impacted by welfare reform, macro-economic factors (specifically the employment opportunities and the housing market) and possible further developments in Government policy."<sup>250</sup>

## V. Conclusion

WRA 2012 has precipitated a massive overhaul of the British welfare system and it will not be fully functional on the national level until sometime in 2017. It reflects an ongoing societal shift towards a more conservative stance on welfare in the United Kingdom and one of the most aggressive legislative attempts to gain control of welfare spending in the United Kingdom's history. While the Act's overarching goal to increase employment and decrease dependency on benefits is admirable, it is quite ambitious and the mechanisms needed to implement the provisions will undoubtedly require continued adjustment before the Act's full value can be realized. Other governments faced with similar economic challenges are watching the unfolding impacts of WRA 2012 closely, as well.

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243. Matthew Jackson & Stephanie Nixon, *The Cumulative Impact of Welfare Reform*, CTR. FOR LOC. ECON. STRATEGIES 1 (Aug. 2012), <http://www.cles.org.uk/wp-content/uploads/2012/08/Welfare-reform.pdf>.

244. *Id.* at 5.

245. *Id.*

246. *Id.*

247. *Id.*

248. *Id.* at 6-7.

249. Enfield Council, *supra* note 235, at 4.

250. *Id.* at 5.

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2014 • VOLUME 48

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