

Freedom of Information request 5156/2014

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Information request

I write regarding clarity of section 187 of Social Security Act 1992;

187 Certain benefit to be inalienable

(1) Subject to the provisions of this Act, every assignment of or charge on—

(a) benefit as defined in section 122 of the Contributions and Benefits Act;

(b) any income-related benefit; or

(c) child benefit,

and every agreement to assign or charge such benefit shall be void; and, on the bankruptcy of a beneficiary, such benefit shall not pass to any trustee or other person acting on behalf of his creditors.

1. What legislation/authority permits the Department for Work & Pensions ("DWP") to disregard the aforementioned legislation when taking direct deductions from "inalienable benefits" on behalf of third party creditors.

Please cite the relevant Act and section;

2. What agreement is in place between DWP and third party creditors e.g., United Utilities Group Plc, that permits said third party creditor to apply for direct deductions from "inalienable benefits" without requirement of a valid court/liability order? Please provide evidence of said agreement.

DWP response

The starting point here is that the reference to "inalienable" is to be read in the context of a third party putting in place an authority which re-directs benefit monies from the claimant's account to another account immediately it arrives in the account. This would usually happen where this is a debt and the creditor having exhausted all other avenues asks the bank to put an assignment or a charge on the account. S187 voids that assignment or charge.

This contrasts with the situation where a claimant has outstanding liabilities eg in relation to rent, mortgage, gas, electric, water charges, and where the law provides that an amount can be deducted from benefit to pay off arrears and to cover current consumption. The primary power, that is, the Act of Parliament which allows this deduction to be made, is the Social Security

Administration Act 1992, section 5(1)(p); the regulation which sets out the detail is regulation 35 of the Social Security (Claims and Payments) Regulations 1987 SI 1968 – “Deductions which may be made from benefit and paid to third parties”, and Schedule 9 of the same regulation.

In comparison to an assignment for debt, a deduction here is consistent with the ethos of benefit legislation ie it serves a welfare/public good purpose and takes due account of daily support and subsistence needs. In effect we are acting in the best interests of the claimant – we want to avoid them being evicted or having a utility switched off etc. And it is for this reason that we work with landlords and utility companies – who of course are the first to be aware of unpaid rent or bills - directly and without first seeking the authority of the claimant to so act.