
STATUTORY INSTRUMENTS

1997 No. 1182 (N.I. 11)

**The Social Security Administration
(Fraud) (Northern Ireland) Order 1997 ^{F1}**

- - - - - 8th April 1997

F1 functions transf. by SR 1999/481

Title and commencement

1.—(1) This Order may be cited as the Social Security Administration (Fraud) (Northern Ireland) Order 1997.

(2) This Order shall come into operation on such day or days as the Department may by order appoint^{F2}.

(3) An order under paragraph (2) may include such transitional provisions, consequential provisions or savings as the Department considers appropriate for the purposes of, or in connection with, the provisions to which it applies.

(4) Nothing in Article 12, 13 or 14 applies in relation to any act occurring before the Article comes into operation.

F2 partly exercised by SR 1997/316; 1997/449, 480; 1997/508

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“the Administration Act” means the Social Security Administration (Northern Ireland) Act 1992;

“the Department” means the Department of Health and Social Services.

Supply and use of information

The Housing Executive

3. After section 116B of the Administration Act insert—

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“The Housing Executive

Supply of information to the Housing Executive.

116C.—(1) This section applies to information relating to social security which is held—

- (a) by the Department or the Secretary of State; or
- (b) by a person providing services to the Department or the Secretary of State in connection with the provision of those services.

(2) Information to which this section applies may be supplied to—

- (a) the Housing Executive; or
- (b) a person authorised to exercise any function of the Housing Executive relating to housing benefit,

for use in the administration of housing benefit.

(3) But where information to which this section applies has been supplied to the Department, the Secretary of State or the person providing services under section 116 or 116B above it may only be supplied under subsection (2) above—

- (a) for use in the prevention, detection, investigation or prosecution of offences relating to housing benefit; or
- (b) for use in checking the accuracy of information relating to housing benefit and (where appropriate) amending or supplementing such information.

(4) The Department or the Secretary of State—

- (a) may impose conditions on the use of information supplied under subsection (2) above; and
- (b) may charge a reasonable fee in respect of the cost of supplying information under that subsection.

(5) Where information is supplied to the Housing Executive or other person under subsection (2) above, the Executive or other person shall have regard to it in the exercise of any function relating to housing benefit.

(6) Information supplied under subsection (2) above shall not be supplied by the recipient to any other person or body unless—

- (a) it is supplied—
 - (i) by the Housing Executive to a person authorised to exercise any function of the Executive relating to housing benefit; or
 - (ii) by a person authorised to exercise any function of the Housing Executive relating to housing benefit to the Executive;
- (b) it is supplied for the purposes of any civil or criminal proceedings relating to the Contributions and Benefits Act, the Jobseekers (Northern Ireland) Order 1995 or this Act or to any enactment applying in Great Britain corresponding to any of them; or
- (c) it is supplied under section 116D below.

(7) This section does not limit the circumstances in which information may be supplied apart from this section (in particular by reason of section 116(4) or 116B(4) above).

Supply of information by the Housing Executive.

116D.—(1) The Department or the Secretary of State may require—

- (a) the Housing Executive; or

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- (b) a person authorised to exercise any function of the Housing Executive relating to housing benefit,

to supply benefit administration information held by the Executive or other person to, or to a person providing services to, the Department or the Secretary of State for use for any purpose relating to social security.

- (2) The Department or the Secretary of State may require—

- (a) the Housing Executive; or
(b) a person authorised to exercise any function of the Housing Executive relating to housing benefit,

to supply benefit policy information held by the Executive or other person to, or to a person providing services to, the Department or the Secretary of State.

(3) Information shall be supplied under subsection (1) or (2) above in such manner and form, and in accordance with such requirements, as may be prescribed.

(4) In subsection (1) above “benefit administration information”, in relation to the Housing Executive or other person, means any information which is relevant to the exercise of any function relating to housing benefit by the Executive or other person.

(5) In subsection (2) above “benefit policy information” means any information which may be relevant to the Department or the Secretary of State—

- (a) in preparing estimates of likely future expenditure on housing benefit; or
(b) in developing policy relating to housing benefit.”.

Unauthorised disclosure by officials

4.—(1) In Schedule 4 to the Administration Act (persons who may commit an offence under section 117 of that Act), after the entry headed “Other public departments and offices” insert—

“The Housing Executive etc.

A member, officer or employee of the Housing Executive.

A person authorised to exercise any function of the Housing Executive relating to housing benefit or any employee of such a person.

A person authorised under section 128A(1) of this Act to consider and report to the Department on the administration of housing benefit.”.

(2) In section 117 of that Act (offence of unauthorised disclosure by certain persons of information relating to particular persons), in subsection (8) (persons employed in audit of expenditure)—

- (a) after paragraph (g) insert—

- “(ga) a Northern Ireland local government auditor;
(gb) a member of the Audit Commission for Local Authorities and the National Health Service in England and Wales and any auditor appointed by that Commission;
(gc) a member of the Accounts Commission for Scotland and any auditor within the meaning of Part VII of the Local Government (Scotland) Act 1973;”

- (b) after paragraph (h) insert—

- “(ha) a member of the Local Commission for England;
(hb) a member of the Local Commission for Wales;
(hc) the Commissioner for Local Administration in Scotland; and” , and

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- (c) in paragraph (i), for “referred to in paragraph (b), (c), (e) or (h) above” substitute “or Commissions referred to in paragraphs (b), (c), (e) and (gb) to (hc) above and any person assisting an auditor referred to in paragraph (ga), (gb) or (gc) above”.

Administration of housing benefit

Overseeing of administration by Department

5. After section 128 of the Administration Act insert—

“Reports

Persons to report on administration.

128A.—(1) The Department may authorise persons to consider and report to it on the administration by the Housing Executive of housing benefit and, in particular, the Executive's performance in the prevention and detection of fraud relating to that benefit.

(2) A person may be authorised under subsection (1) above on such terms and for such period as the Department thinks fit.

Powers of investigation.

128B.—(1) A person authorised under section 128A(1) above—

- (a) has a right of access at all reasonable times to any document relating to the administration of housing benefit;
- (b) is entitled to require from any person holding or accountable for any such document such information and explanation as he thinks necessary; and
- (c) is entitled, if he thinks it necessary, to require any such person to produce any such document or to attend before him in person to give such information or explanation.

(2) A person authorised under section 128A(1) above is entitled to require any officer or member of the Housing Executive or any person involved in the administration of housing benefit for the Executive—

- (a) to give him such information and explanation relating to the administration of housing benefit as he thinks necessary; and
- (b) if he thinks it necessary, to require any such person to attend before him in person to give the information or explanation.

(3) A person who without reasonable excuse fails to comply with a requirement under subsection (1) or (2) above is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) A person authorised under section 128A(1) above may—

- (a) require any document or information which is to be given to him under subsection (1) or (2) above to be given in any form reasonably specified by him; and
- (b) take copies of any document produced to him.

(5) In this section “document” means anything in which information of any description is recorded.

Reports.

128C.—(1) A report about the Housing Executive by a person authorised under section 128A(1) above may include recommendations about improvements which could be made by the Executive in its administration of housing benefit and, in particular, in the prevention and detection of fraud relating to that benefit.

(2) When the Department receives a report about the Housing Executive from a person authorised under section 128A(1) above, it shall send a copy to the Executive.”.

Role of local government auditors in relation to housing benefit

6.—(1) The Department may request^[F3] the Comptroller and Auditor General for Northern Ireland^[F3] to conduct or assist the Department in conducting studies designed to improve economy, efficiency, effectiveness and quality of performance in the discharge by the Housing Executive of functions relating to the administration of housing benefit.

(2) In the following provisions of this Article “study” means a study which^[F3] the Comptroller and Auditor General for Northern Ireland^[F3] is requested to conduct, or assist the Department in conducting, under paragraph (1).

(3) If^[F3] the Comptroller and Auditor General for Northern Ireland^[F3] requires the Housing Executive or any officer or member of the Executive to supply him or an authorised person with such information as is needed for the purposes of the study, the Executive or officer or member shall supply the information.

(4) If^[F3] the Comptroller and Auditor General for Northern Ireland^[F3] requires the Housing Executive to make available for inspection by him or by an authorised person documents which relate to the Executive and are needed for the purposes of the study, the Executive shall make the documents available.

(5) Any information obtained under a requirement under paragraph (3) or (4) may be disclosed by^[F3] the Comptroller and Auditor General for Northern Ireland^[F3] to the Department for the purposes of any of its functions which are connected with housing benefit.

(6) In paragraphs (3) and (4) “authorised person” means a person authorised by^[F3] the Comptroller and Auditor General for Northern Ireland^[F3] for the purposes of this Article.

(7) ^[F3]The Comptroller and Auditor General for Northern Ireland^[F3] shall send to the Department a copy of any report of a study; and the Department or a local government auditor may send a copy of a report of a study to the Housing Executive.

(8) Any report of a study may be published by the Department.

(9) ^[F3]The Comptroller and Auditor General for Northern Ireland^[F3] shall not conduct, or assist the Department in conducting, a study unless, before he does so, the Department has made arrangements for the payment of such reasonable amount as may be agreed between it and^[F3] The Comptroller and Auditor General for Northern Ireland^[F3] in respect of the study.

(10) The Department may supply to^[F3] the Comptroller and Auditor General for Northern Ireland^[F3] any information held by it which relates to housing benefit and which appears to it to be relevant to the exercise of any function of^[F3] the Comptroller and Auditor General for Northern Ireland^[F3].