

SOCIAL SECURITY FRAUD ACT 2001

EXPLANATORY NOTES

COMMENTARY ON CLAUSE 5

Exchange of information with overseas authorities

76. Clause 5(1) inserts a new section 179A after section 179 of the Social Security Administration Act 1992. Section 179 provides for reciprocal agreements relating to social security with countries outside the UK to be given effect by Order in Council.
77. The new section 179A provides for the Secretary of State to disclose any relevant information to authorities in countries outside of the UK under agreed arrangements for the exchange of relevant information, where those countries have adequate safeguards against improper use of that information.
78. New section 179A(1) provides that the provisions of new section 179A to supply information to authorities in countries outside the UK will only apply where:
 - (a) it appears to the Secretary of State that there is an arrangement in force between him and the other country for the exchange of relevant information; and
 - (b) in the Secretary of State's view, the law and arrangements in the other country provide adequate safeguards against any improper use of information disclosed under this section.
79. New section 179A(2) provides that the Secretary of State may disclose relevant information where this is necessary to give effect to the arrangements mentioned in section 179A(1)(a). The information must be supplied for the purposes of helping the other country carry out functions relating to anything corresponding to, or in the nature of, social security benefits.
80. New section 179A(3) provides that the Secretary of State shall be under a duty to take reasonable steps to ensure that any information received under an arrangement mentioned in section 179A(1)(a) is not used for any purpose that is not covered expressly or impliedly in that arrangement. For example, the Memorandum of Understanding with the Government of Ireland contains an agreement that the Secretary of State will not pass information to the security services.
81. New section 179A(4) provides that this section does not apply where section 179 gives effect to any arrangements.
82. New section 179A(5) extends the purposes for which the Secretary of State may require information in respect of Housing Benefit and Council Tax Benefit from the authorities administering Housing Benefit or Council Tax Benefit under section 122D of the Social Security Administration Act 1992 or section 116D of the Northern Ireland Administration Act to include disclosure to other countries in accordance with this section.
83. New section 179A(6) provides a definition of relevant information for the purpose of this section as information held by the Secretary of State or any authorities in a country

*These notes refer to the Social Security Fraud Act 2001
(c.11) which received Royal Assent on 11 May 2001*

outside the UK for the purposes of any function relating to a social security benefit or anything corresponding to, or in the nature of, a social security benefit.

84. Clause 5(2) inserts a new section 155A after section 155 in Part XIII of the Social Security Administration (Northern Ireland) Act 1992. It provides the same measures for the Northern Ireland Department which administers social security benefits as the new section 179A provides for the Secretary of State.

Clause 6: Exchange of information by authorities administering benefit

The measures in the Act

85. The proposed amendment is a technical change to the provisions under which an authority administering Housing Benefit or Council Tax Benefit can be required to provide information to DSS or to another authority.
86. Section 122D of the Social Security Administration Act 1992 enables the Secretary of State to require an authority administering Housing Benefit or Council Tax Benefit to supply information to him. But, if the Secretary of State wishes to impose requirements relating to the manner and form in which the information is provided he must make regulations under subsection (3). This measure will allow the Secretary of State to specify in directions, rather than regulations, the manner and form (and other requirements) in which information is to be provided.
87. Section 122E of the Social Security Administration Act 1992 provides for the exchange of information between authorities administering Housing Benefit or Council Tax Benefit. Subsections (3) and (4) enable the Secretary of State to require information to be supplied by one authority to another. Those subsections have not yet been commenced. However, as subsection (4) mirrors section 122D(3), it is also being amended for the sake of consistency.