

*These notes refer to the Welfare Reform Act (Northern Ireland)
2007 (c.2) which received Royal Assent on 27 June 2007*

Welfare Reform Act (Northern Ireland) 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

PART 3: Social security administration: General

Benefit fraud

Sections 42 and 43: Housing Executive powers to investigate and prosecute benefit fraud

At present, section 104A of the Administration Act allows the Housing Executive to investigate fraud against housing benefit. However, significant doubt has arisen as to whether this allows it to investigate fraud in connection with benefits administered by the Department. In particular, the doubt exists where benefit entitlement means that a claimant automatically satisfies some eligibility conditions to housing benefit. This reduces the scope for effective joint working between the Housing Executive and the Department to investigate and prosecute fraud cases that involve more than one benefit.

Most cases of benefit fraud will continue to be investigated by the Department. However, the Act provides the Housing Executive with clear powers to investigate and prosecute offences in relation to benefits, where they already have power to investigate and prosecute offences concerning housing benefit.

Section 42 sets out the scope of the new provisions which give the Housing Executive a wider power to investigate benefit fraud and extends its powers permitting it to obtain information from persons such as employers, pension providers, financial service companies, utilities and educational organisations.

This brings the investigative powers of the Housing Executive generally into line with those available to the Department and allows the Housing Executive to obtain information relating to other social security benefits in addition to housing benefit. However, the Housing Executive will not be able to obtain information about the circumstances of accidents or injuries giving rise to claims for benefit, because such a power would be unnecessary for the investigation of benefit fraud. The measures will not add to the list of persons who may be required to provide information.

Subsection (3) gives the Department power to prescribe in regulations that certain conditions must be satisfied in order for the Housing Executive to make

use of these powers. These “prescribed conditions” enable the Department to limit the powers in a way that ensures that only certain benefit offences may be investigated and to provide safeguards against misuse.

Section 43 creates a new power for the Housing Executive to prosecute offences concerning “relevant social security benefits” as defined in section 115CA of the Administration Act, by inserting a new section 110A into that Act.

Subsection (3) of new section 110A gives the Department power to prescribe in regulations that certain conditions must be satisfied before the Housing Executive can prosecute offences against the additional benefits. These conditions allow safeguards to be put in place to ensure that the Housing Executive’s powers are not misused and permit the Department to prevent the prosecution in certain cases on an individual basis.