

SCHEDULE 1

Regulation 3(1)

Memorandum of Arrangements relating to the creation of a single system of social security investigation powers in Great Britain and Northern Ireland

Introductory

1. This Memorandum sets out arrangements made under section 87(2) of the Northern Ireland Act 1998⁽¹⁾ between the Secretary of State for Work and Pensions with the consent of the Treasury of the one part and the Department for Social Development in Northern Ireland with the consent of the Department of Finance and Personnel in Northern Ireland of the other part.

2. The arrangements set out in this Memorandum shall come into force on 1st March 2007.

Interpretation

3. In this Memorandum—

“1992 (GB) Act” means the Social Security Administration Act 1992⁽²⁾;

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

“administrative penalty provisions” means—

(a) in relation to Great Britain, section 115B of the 1992 (GB) Act; and

(b) in relation to Northern Ireland, section 109B of the 1992 (NI) Act;

“authorised officer” means—

(a) in relation to Great Britain—

(i) an individual who, for any one or more of the purposes listed in section 109A(2) of the 1992 (GB) Act, has the authorisation of the Secretary of State to exercise any one or more of the powers conferred by sections 109B, 109BA and 109C of the 1992 (GB) Act, or

(ii) an individual who, for any one or more of the purposes listed in section 110A(2) of the 1992 (GB) Act, has the authorisation of an authority administering housing benefit or council tax benefit to exercise any one or more of the powers conferred by sections 110A and 110AA of the 1992 (GB) Act; and

(b) in relation to Northern Ireland—

(i) an individual who, for any one or more of the purposes listed in section 103A(2) of the 1992 (NI) Act, has the authorisation of the Department for Social Development in Northern Ireland to exercise any one or more of the powers conferred by sections 103B, 103BA and 103C of the 1992 (NI) Act, or

(ii) an individual who, for any one or more of the purposes listed in section 104A(2) of the 1992 (NI) Act, has the authorisation of the Northern Ireland Housing Executive to exercise any one or more of the powers conferred by sections 104A and 104AA of the 1992 (NI) Act;

“electronic record-keeper” means—

(a) in relation to Great Britain—

(1) 1998 c. 47. While section 1 of the Northern Ireland Act 2000 (c. 1) is in force, the power of a Northern Ireland Minister to make arrangements with the Secretary of State under section 87(2) of the Northern Ireland Act 1998 may be discharged by the department of which he was in charge: see paragraph 4(1)(b) of the Schedule to the Northern Ireland Act 2000

(2) 1992 c. 5

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- (i) a person who keeps electronic records and who, for the purposes of section 109BA(1) of the 1992 (GB) Act, may be required by the Secretary of State to enter into arrangements to allow authorised officers access to those records, or
 - (ii) a person who keeps electronic records and who, for the purposes of section 110AA(1) of the 1992 (GB) Act, may be required by an authority administering housing benefit or council tax benefit to enter into arrangements to allow authorised officers access to those records; and
- (b) in relation to Northern Ireland—
- (i) a person who keeps electronic records and who, for the purposes of section 103BA(1) of the 1992 (NI) Act, may be required by the Department for Social Development in Northern Ireland to enter into arrangements to allow authorised officers access to those records, or
 - (ii) a person who keeps electronic records and who, for the purposes of section 104AA of the 1992 (NI) Act, may be required by the Northern Ireland Housing Executive to enter into arrangements to allow authorised officers access to those records;

“legislation” means—

- (a) in relation to Great Britain, the 1992 (GB) Act; and
- (b) in relation to Northern Ireland, the 1992 (NI) Act;

“relevant authority” means—

- (a) in relation to Great Britain, the Secretary of State or an authority administering housing benefit or council tax benefit; and
- (b) in relation to Northern Ireland, the Department for Social Development in Northern Ireland or the Northern Ireland Housing Executive;

“relevant criminal provision” means—

- (a) in relation to Great Britain, section 111 or 115 of the 1992 (GB) Act; and
- (b) in relation to Northern Ireland, section 105 or 109 of the 1992 (NI) Act;

“social security investigation powers” means—

- (a) in relation to Great Britain—
 - (i) the power to require by written notice that information be provided for the purposes of section 109B of the 1992 (GB) Act,
 - (ii) the power to obtain information in accordance with arrangements entered into for the purposes of sections 109BA and 110AA of the 1992 (GB) Act, and
 - (iii) the power to enter premises and exercise any one or more of the powers associated with such entry for the purposes of section 109C of the 1992 (GB) Act; and
- (b) in relation to Northern Ireland—
 - (i) the power to require by written notice that information be provided for the purposes of section 103B of the 1992 (NI) Act,
 - (ii) the power to obtain information in accordance with arrangements entered into for the purposes of sections 103BA and 104AA of the 1992 (NI) Act, and
 - (iii) the power to enter premises and exercise any one or more of the powers associated with such entry for the purposes of section 103C of the 1992 (NI) Act;

“stipulated purposes” means—

- (a) in relation to Great Britain, the purposes set out in sections 109A(2) and 110A(2) of the 1992 (GB) Act; and

- (b) in relation to Northern Ireland, the purposes set out in sections 103A(2) and 104A(2) of the 1992 (NI) Act;

“territory” means Great Britain or Northern Ireland, as the case may require.

4. In the application of this Memorandum to a territory, expressions used in this Memorandum shall (unless the context otherwise requires) have the same respective meanings as in the legislation that relates to that territory.

5. The rules for the construction of Acts of Parliament contained in the Interpretation Act 1978(3) shall apply for the purposes of the interpretation of this Memorandum as they apply for the purposes of the interpretation of an Act of Parliament.

Single system of social security investigation powers

6. Social security investigation powers shall operate as a single system in Great Britain and Northern Ireland.

7. The following arrangements in particular shall apply (but without prejudice to the generality of paragraph 6).

Powers of authorised officers

8. Where an authorised officer has authorisation to exercise any one or more of the social security investigation powers for any one or more of the stipulated purposes of the legislation in one territory, he shall be treated as having authorisation to exercise for the same purposes the equivalent social security investigation powers in the other territory.

9. Any restrictions on the powers exercisable by virtue of his authorisation which apply in one territory are also to apply in the other territory.

Obligations of electronic record-keepers

10. A relevant authority in one territory may require an electronic record-keeper in the other territory to enter into arrangements under which authorised officers are allowed access to its electronic records; and where it does so, that requirement shall be treated for the purposes of the legislation of the other territory as a requirement of a relevant authority in that other territory.

Enforcement: criminal offences and administrative penalties

11.—(1) This paragraph applies where—

- (a) an authorised officer authorised to exercise any of the social security investigation powers in one territory exercises the equivalent social security investigation powers in the other territory (see paragraph 8); or
- (b) a relevant authority in one territory requires an electronic record-keeper in the other territory to enter into arrangements under which authorised officers are allowed access to its electronic records (see paragraph 10).

(2) An act, omission or event in relation to the authorised officer shall be treated for the purposes of—

- (a) a relevant criminal provision; and
- (b) the administrative penalty provisions,

(3) 1978 c. 30

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as if it occurred in relation to an officer who is authorised by a relevant authority in the territory where the act, omission or event occurred.

(3) An act, omission or event in relation to the relevant authority shall be treated for the purposes of—

- (a) a relevant criminal provision; and
- (b) the administrative penalty provisions,

as if it occurred in relation to a relevant authority in the territory where the act, omission or event occurred.