



Welfare Reform Act 2007

2007 CHAPTER 5

PART 3

SOCIAL SECURITY ADMINISTRATION: GENERAL

Benefit fraud

46 Local authority powers to investigate benefit fraud

- (1) Section 110A of the Administration Act (authorisation of investigations by authorities administering housing benefit or council tax benefit) is amended as follows.
- (2) In subsection (1) for “any one or more of the purposes mentioned in subsection (2) below” substitute “a relevant purpose”.
- (3) After subsection (1) insert—
 - “(1A) Each of the following is a relevant purpose—
 - (a) a purpose mentioned in subsection (2) below;
 - (b) a purpose mentioned in section 109A(2)(a), (c) or (d).
 - (1B) If the Secretary of State prescribes conditions for the purposes of this section, an authority must not proceed under this section for a purpose mentioned in section 109A(2)(a), (c) or (d) unless any such condition is satisfied.
 - (1C) An authorisation made for a purpose mentioned in section 109A(2)(a), (c) or (d)—
 - (a) is subject to such restrictions as may be prescribed;
 - (b) is not valid in such circumstances as may be prescribed.”
- (4) In subsection (2) for “Those purposes” substitute “The purposes in this subsection”.
- (5) In subsection (8), after paragraph (c) insert—

“but paragraphs (a) and (b) above do not apply in any case where the relevant purpose is as mentioned in subsection (1A)(b) above.”

47 **Local authority powers to prosecute benefit fraud**

After section 116 of the Administration Act (legal proceedings) insert—

“116A Local authority powers to prosecute benefit fraud

- (1) This section applies if an authority administering housing benefit or council tax benefit has power to bring proceedings for a benefit offence relating to that benefit.
- (2) The authority may bring proceedings for a benefit offence relating to any other relevant social security benefit unless—
 - (a) the proceedings relate to any benefit or circumstances or any description of benefit or circumstances which the Secretary of State prescribes for the purposes of this paragraph, or
 - (b) the Secretary of State has directed that the authority must not bring the proceedings,and a direction under paragraph (b) may relate to a particular authority or description of authority or to particular proceedings or any description of proceedings.
- (3) If the Secretary of State prescribes conditions for the purposes of this section, an authority must not bring proceedings under this section unless any such condition is satisfied.
- (4) The Secretary of State may continue proceedings which have been brought by an authority under this section as if the proceedings had been brought in his name or he may discontinue the proceedings if—
 - (a) he makes provision under subsection (2)(a), such that the authority would no longer be entitled to bring the proceedings under this section,
 - (b) he gives a direction under subsection (2)(b) in relation to the proceedings, or
 - (c) a condition prescribed under subsection (3) ceases to be satisfied in relation to the proceedings.
- (5) In the exercise of its power under subsection (2), a local authority must have regard to the Code for Crown Prosecutors issued by the Director of Public Prosecutions under section 10 of the Prosecution of Offences Act 1985—
 - (a) in determining whether the proceedings should be instituted;
 - (b) in determining what charges should be preferred;
 - (c) in considering what representations to make to a magistrates' court about mode of trial;
 - (d) in determining whether to discontinue proceedings.
- (6) An authority must not bring proceedings for a benefit offence which does not relate to housing benefit or council tax benefit otherwise than in accordance with this section.
- (7) In subsection (2), “relevant social security benefit” has the same meaning as in section 121DA below.
- (8) This section does not apply to Scotland.”

48 Local authority functions relating to benefit: information

- (1) Section 122C of the Administration Act (supply of information to authorities administering benefit) is amended as follows—
- (a) in subsection (2) at the end insert “or for the purposes of anything the authority is permitted to do in relation to any other benefit by virtue of section 110A or 116A above”;
 - (b) in subsection (3)(a) for “offences relating to housing benefit or council tax benefit” substitute “benefit offences (within the meaning of Part 6 above)”.
- (2) Section 122D of that Act (supply of information by authorities administering benefit) is amended as follows—
- (a) in subsection (1), for “benefit administration information” substitute “relevant benefit information”;
 - (b) in subsection (2A), after “subsection (2)” insert “, in addition to any other purpose for which the information may be used,”;
 - (c) for subsection (4) substitute—
 - “(4) In subsection (1) “relevant benefit information”, in relation to an authority or other person, means any information which is relevant to the exercise of any function relating to a relevant social security benefit by the authority or other person.”;
 - (d) in subsection (5), in each place where it occurs for “housing benefit or council tax benefit” substitute “any relevant social security benefit”;
 - (e) in subsection (6), after the definition of “private pensions policy” insert—
 - ““relevant social security benefit” has the same meaning as in section 121DA above;”.
- (3) Section 122E of that Act (supply of information between authorities administering benefit) is amended as follows—
- (a) in subsection (1) for “benefit administration information” substitute “relevant benefit information”;
 - (b) in subsection (2)(a) for “offences relating to housing benefit or council tax benefit” substitute “benefit offences (within the meaning of Part 6 above)”;
 - (c) for subsection (6) substitute—
 - “(6) In this section “relevant benefit information”, in relation to an authority or other person, means any information which is relevant to the exercise of any function relating to a relevant social security benefit (within the meaning of section 121DA above) by the authority or other person.”
- (4) In section 126A of that Act (power to require information from landlords and agents), in subsection (8) for “benefit administration information” substitute “relevant benefit information”.

49 Loss of benefit for commission of benefit offences

- (1) In section 7 of the Social Security Fraud Act 2001 (c. 11) (loss of benefit for commission of benefit offences) in subsection (1)(b) (period within which later offence must be committed), for “three years” substitute “five years”.

Status: This is the original version (as it was originally enacted).

- (2) The amendment made by subsection (1) shall be disregarded insofar as the application of section 7(1)(b) of that Act involves considering whether an offence committed before the day on which this section comes into force was committed within the relevant period.