



# Welfare Reform Act 2007

## 2007 CHAPTER 5

### PART 3

#### SOCIAL SECURITY ADMINISTRATION: GENERAL

##### *Sharing of social security information*

#### **41 Social security information**

- (1) In the Administration Act, after section 7A (sharing of functions as regards certain claims and information) insert—

##### **“7B Use of social security information**

- (1) A relevant authority may use for a relevant purpose any social security information which it holds.
- (2) Regulations may make provision as to the procedure to be followed by a relevant authority for the purposes of any function it has relating to the administration of a specified benefit if the authority holds social security information which—
- (a) is relevant for the purposes of anything which may or must be done by the authority in connection with a claim for or an award of the benefit, and
  - (b) was used by another relevant authority in connection with a claim for or an award of a different specified benefit or was verified by that other authority in accordance with regulations under section 7A(2)(e) above.
- (3) A relevant purpose is anything which is done in relation to a claim which is made or which could be made for a specified benefit if it is done for the purpose of—
- (a) identifying persons who may be entitled to such a benefit;

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- (b) encouraging or assisting a person to make such a claim;
  - (c) advising a person in relation to such a claim.
- (4) Social security information means—
- (a) information relating to social security, child support or war pensions;
  - (b) evidence obtained in connection with a claim for or an award of a specified benefit.
- (5) A specified benefit is a benefit which is specified in regulations for the purposes of this section.
- (6) Expressions used in this section and in section 7A have the same meaning in this section as in that section.
- (7) This section does not affect any power which exists apart from this section to use for one purpose social security information obtained in connection with another purpose.”
- (2) In section 7A of that Act—
- (a) in subsection (1) after paragraph (b) insert—
    - “(c) as regards any relevant benefit, for claims for that benefit to be made to—
      - (i) a county council in England,
      - (ii) a person providing services to a county council in England, or
      - (iii) a person authorised to exercise any function a county council in England has under this section.”;
  - (b) in subsection (2) after paragraph (d) insert—
    - “(e) the verification by a relevant authority of information or evidence supplied to or obtained by the authority in connection with a claim for or an award of a relevant benefit.”;
  - (c) in subsection (3) for “and (d)” substitute “, (d) and (e)”;
  - (d) in subsection (3)(a) for “(1)(a) or (b)” substitute “(1)(a), (b) or (c)”;
  - (e) in subsection (6) for paragraph (c) substitute—
    - “(c) “relevant authority” means—
      - (i) a Minister of the Crown;
      - (ii) a local authority;
      - (iii) a county council in England;
      - (iv) a person providing services to a person mentioned in sub-paragraphs (i) to (iii);
      - (v) a person authorised to exercise any function of a local authority relating to housing benefit or council tax benefit;
      - (vi) a person authorised to exercise any function a county council in England has under this section;”.
- (3) In Part 1 of Schedule 4 to that Act (persons employed in social security administration or adjudication), under the heading “Local authorities etc” after the entry relating to a person authorised under section 139A(1) of that Act insert—
- “A member, officer or employee of a county council in England who exercises—

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- (a) any function conferred on the county council by regulations made under section 7A of this Act;
- (b) any function in connection with a relevant purpose within the meaning of section 7B(3) of this Act.

A person authorised to exercise any such function of such a county council or an employee of such a person.”

#### **42 Information relating to certain benefits**

- (1) Information falling within subsection (3) may be supplied by the person who holds it to a person falling within subsection (4) for purposes connected with the application of grant paid under a relevant enactment towards expenditure incurred by the recipient of the grant—
  - (a) in providing, or contributing to the provision of, welfare services, or
  - (b) in connection with such welfare services.
- (2) Information falling within subsection (3) which is held for a prescribed purpose by a person falling within any of paragraphs (c) to (h) of subsection (4) may be—
  - (a) used by that person for another prescribed purpose;
  - (b) provided to another such person for use in relation to the same or another prescribed purpose.
- (3) The information is any information which is held by a person falling within subsection (4) relating to—
  - (a) income support;
  - (b) income-based jobseeker’s allowance;
  - (c) income-related employment and support allowance;
  - (d) state pension credit;
  - (e) housing benefit;
  - (f) welfare services.
- (4) The persons are—
  - (a) the Secretary of State;
  - (b) a person providing services to the Secretary of State;
  - (c) an authority administering housing benefit;
  - (d) a person authorised to exercise any function of such an authority relating to housing benefit;
  - (e) a person providing to such an authority services relating to housing benefit;
  - (f) a local authority to which any grant is or will be paid as mentioned in subsection (1);
  - (g) a person authorised to exercise any function of such an authority relating to the grant;
  - (h) a person providing to such an authority services relating to any such function.
- (5) Information which is supplied under subsection (1) to an authority or other person falling within subsection (4)(f), (g) or (h) may be supplied by the authority or person to a person who provides qualifying welfare services for purposes connected with the provision of those services.
- (6) A person provides qualifying welfare services if—

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- (a) he provides welfare services,
  - (b) a local authority contribute or will contribute to the expenditure incurred by him in providing those services, and
  - (c) that contribution is or will be derived (in whole or in part) from any grant which is or will be paid to the authority as mentioned in subsection (1).
- (7) A relevant enactment is an enactment specified by order made by the Secretary of State; and the power to make an order under this subsection is exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) In subsection (2) a prescribed purpose is a purpose relating to housing benefit or welfare services which is prescribed by regulations made by the Secretary of State by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) The power to make an order or regulations under this section includes power—
- (a) to make different provision for different purposes;
  - (b) to make such incidental, supplementary, consequential, transitional or saving provision as the Secretary of State thinks necessary or expedient.
- (10) In this section—
- “income-based jobseeker’s allowance” has the same meaning as in the Jobseekers Act 1995 (c. 18);
  - “income-related employment and support allowance” means an income-related allowance under Part 1;
  - “local authority” means—
    - (a) in relation to England, a county council, a district council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly;
    - (b) in relation to Wales, a county council or a county borough council;
  - “welfare services” includes services which provide support, assistance, advice or counselling to individuals with particular needs.
- (11) In the Local Government Act 2000 (c. 22), sections 94 (disclosure of information) and 95 (unauthorised disclosure of information) are omitted.

### **43 Unlawful disclosure of certain information**

- (1) A person to whom subsection (2) applies is guilty of an offence if he discloses without lawful authority any information—
- (a) which comes to him by virtue of section 42(1), (2) or (5), and
  - (b) which relates to a particular person.
- (2) This subsection applies to—
- (a) a person mentioned in section 42(4)(f) to (h);
  - (b) a person who provides qualifying welfare services (within the meaning of section 42(6));
  - (c) a person who is or has been a director, member of the committee of management, manager, secretary or other similar officer of a person mentioned in paragraph (a) or (b);

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- (d) a person who is or has been an employee of a person mentioned in paragraph (a) or (b).
- (3) A person guilty of an offence under this section shall be liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine or both, or
  - (b) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum or both.
- (4) It is not an offence under this section—
  - (a) to disclose information in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it;
  - (b) to disclose information which has previously been disclosed to the public with lawful authority.
- (5) It is a defence for a person charged with an offence under this section to prove that at the time of the alleged offence—
  - (a) he believed that he was making the disclosure in question with lawful authority and had no reasonable cause to believe otherwise, or
  - (b) he believed that the information in question had previously been disclosed to the public with lawful authority and had no reasonable cause to believe otherwise.
- (6) A disclosure is made with lawful authority if it is so made for the purposes of section 123 of the Administration Act.
- (7) This section does not affect that section.
- (8) Until the commencement of section 282 of the Criminal Justice Act 2003 (c. 44) (increase in maximum term that may be imposed on summary conviction of offence triable either way) the reference in subsection (3)(b) to 12 months must be taken to be a reference to 6 months.

#### *Overpayment recovery*

### **44 Recovery of overpaid benefit: Great Britain**

- (1) Section 71 of the Administration Act (overpayments) is amended as follows.
- (2) Subsection (5) (recovery of overpayments paid into account not recoverable under regulations under subsection (4) unless determination of amount is reversed on appeal etc. and overpayment is determined on the appeal etc. to be so recoverable) ceases to have effect.
- (3) In subsection (5A) (recovery of overpayments paid in consequence of misrepresentation etc. not recoverable under subsection (1) unless determination of amount is reversed on appeal etc.) for “under subsection (1) above” substitute “under subsection (1) or under regulations under subsection (4)”.

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

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#### **45 Recovery of overpaid child benefit and guardian’s allowance: Northern Ireland**

- (1) Section 69 of the Social Security Administration (Northern Ireland) Act 1992 (c. 8) (overpayments) is amended as follows.
- (2) Subsection (5) (recovery of overpayments paid into account not recoverable under regulations under subsection (4) unless determination of amount is reversed on appeal etc. and overpayment is determined on the appeal etc. to be so recoverable) ceases to have effect.
- (3) In subsection (5A) (recovery of overpayments paid in consequence of misrepresentation etc. not recoverable under subsection (1) unless determination of amount is reversed on appeal etc.) for “under subsection (1) above” substitute “under subsection (1) or under regulations under subsection (4)”.
- (4) The amendments made by this section have effect only in relation to child benefit and guardian’s allowance.

#### *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—

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### **“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.”

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

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#### **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”.



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- (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.