2007 CHAPTER 2

PART 3

SOCIAL SECURITY ADMINISTRATION: GENERAL

Sharing of social security information

Social security information

38.—(1) In the Administration Act, after section 5A (sharing of functions as regards certain claims and information) insert—

"**5B 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 5A(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;

(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 5A 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 5A of that Act—

(a) in subsection (2) after paragraph (d) add—

"(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.";

(b) in subsection (3) for "and (d)" substitute ", (d) and (e)".

Information relating to certain benefits

39.—(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 statutory provision 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 Department;

(b) a person providing services to the Department;

(c) the Housing Executive or the Department of Finance and Personnel;

(d) a person authorised to exercise any function of the Housing Executive or that Department relating to housing benefit;

(e) a person providing to the Housing Executive or that Department services relating to housing benefit;

(f) a body established by or under a statutory provision to which any grant is or will be paid as mentioned in subsection (1);

(g) a person authorised to exercise any function of such a body relating to the grant;

(h) a person providing to such a body services relating to any such function.

(5) Information which is supplied under subsection (1) to a person or body falling within subsection (4)(f), (g) or (h) may be supplied by the person or body 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—

(a) he provides welfare services,

(b) a body established by or under a statutory provision contributes 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 body as mentioned in subsection (1).

(7) A relevant statutory provision is a statutory provision specified by order made by the Department subject to negative resolution.

(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 Department subject to negative resolution.

(9) The power to make an order or regulations under this section includes power to make such incidental, supplementary, consequential, transitional or savings provision as the Department thinks necessary or expedient.

(10) In this section—

"income-based jobseeker's allowance" has the same meaning as in the Jobseekers Order;

"income-related employment and support allowance" means an income-related allowance under Part 1;

"welfare services" includes services which provide support, assistance, advice or counselling to individuals with particular needs.

(11) In the Housing Support Services (Northern Ireland) Order 2002 (NI 8), omit Articles 6 (disclosure of information) and 7 (unauthorised disclosure of information).

Unlawful disclosure of certain information

40.—(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 39(1), (2) or (5), and

(b) which relates to a particular person.

(2) This subsection applies to—

(a) a person mentioned in section 39(4)(f) to (h);

(b) a person who provides qualifying welfare services (within the meaning of section 39(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);

(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 two years or a fine or both, or

(b) on summary conviction, to imprisonment for a term not exceeding six 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 117 of the Administration Act.

(7) This section does not affect that section.

Overpayment recovery

Recovery of overpaid benefit

41.—(1) Section 69 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) above or under regulations under subsection (4) above".

Benefit fraud

Housing Executive powers to investigate benefit fraud

42.—(1) Section 104A of the Administration Act (authorisation of investigations by the Housing Executive) 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 103A(2)(a), (c) or (d) above.

(1B) If the Department prescribes conditions for the purposes of this section, the Housing Executive must not proceed under this section for a purpose mentioned in section 103A(2)(a), (c) or (d) above unless any such condition is satisfied.

(1C) An authorisation made for a purpose mentioned in section 103A(2)(a), (c) or (d) above—

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

Housing Executive powers to prosecute benefit fraud

43. After section 110 of the Administration Act (legal proceedings) insert—

“**110A Housing Executive powers to prosecute benefit fraud**

(1) This section applies if the Housing Executive has power to bring proceedings for a benefit offence relating to housing benefit.

(2) The Housing Executive 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 Department prescribes for the purposes of this paragraph, or

(b) the Department has directed that the Housing Executive must not bring the proceedings,

and a direction under paragraph (b) above may relate to the Housing Executive or to particular proceedings or any description of proceedings.

(3) If the Department prescribes conditions for the purposes of this section the Housing Executive must not bring proceedings under this section unless any such condition is satisfied.

(4) The Department may continue proceedings which have been brought by the Housing Executive under this section as if the proceedings had been brought in the Department’s name or it may discontinue the proceedings if—

(a) it makes provision under subsection (2)(a) above, such that the Housing Executive would no longer be entitled to bring the proceedings under this section,

(b) it gives a direction under subsection (2)(b) above in relation to the proceedings, or

(c) a condition prescribed under subsection (3) above ceases to be satisfied in relation to the proceedings.

(5) The Housing Executive must not bring proceedings for a benefit offence which does not relate to housing benefit otherwise than in accordance with this section.

(6) In subsection (2) above, "relevant social security benefit" has the same meaning as in section 115CA below.".

Housing Executive functions relating to benefit: information

44.—(1) Section 116C of the Administration Act (supply of information to the Housing Executive) is amended as follows—

(a) in subsection (2) at the end add "or for the purposes of anything the Housing Executive is permitted to do in relation to any other benefit by virtue of section 104A or 110A above";

(b) in subsection (3)(a) for "offences relating to housing benefit" substitute "benefit offences (within the meaning of Part 6 above)".

(2) Section 116D of that Act (supply of information by the Housing Executive) 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) above "relevant benefit information", in relation to the Housing Executive or other person, means any information which is relevant to the exercise of any function relating to a relevant social security benefit by the Housing Executive or other person.";

(d) in subsection (5), in each place where it occurs, for "housing 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 115CA above;".

(3) In section 119A of that Act (power to require information from landlords and agents), in subsection (8) for "benefit administration information" substitute "relevant benefit information".

Loss of benefit for commission of benefit offences

45.—(1) In section 6 of the Social Security Fraud Act (Northern Ireland) 2001 (c. 17) (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".

(2) The amendment made by subsection (1) shall be disregarded insofar as the application of section 6(1)(b) of that Act involves considering whether an offence committed before the day on which this section comes into operation was committed within the relevant period.