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## SCHEDULES

### SCHEDULE 6

Section 58.

#### SOCIAL SECURITY INVESTIGATION POWERS

##### *Preliminary*

1. Part VI of the Administration Act (enforcement) shall be amended as follows.

##### *Replacement for inspector's powers*

2. For section 104 (appointment and powers of inspectors) there shall be substituted—

##### **“103A Authorisations for investigators**

(1) An individual who for the time being has the Department's authorisation for the purposes of this Part shall be entitled, for any one or more of the purposes mentioned in subsection (2) below, to exercise any of the powers which are conferred on an authorised officer by sections 103B and 103C below.

(2) Those purposes are—

- (a) ascertaining in relation to any case whether a benefit is or was payable in that case in accordance with any provision of the relevant social security legislation;
- (b) investigating the circumstances in which any accident, injury or disease which has given rise, or may give rise, to a claim for—
  - (i) industrial injuries benefit, or
  - (ii) any benefit under any provision of the relevant social security legislation,occurred or may have occurred, or was or may have been received or contracted;
- (c) ascertaining whether provisions of the relevant social security legislation are being, have been or are likely to be contravened (whether by particular persons or more generally);
- (d) preventing, detecting and securing evidence of the commission (whether by particular persons or more generally) of benefit offences.

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(3) An individual has the Department's authorisation for the purposes of this Part if, and only if, the Department has granted him an authorisation for those purposes and he is—

- (a) an official of a government department;
- (b) an individual employed by the Housing Executive; or
- (c) an individual authorised to carry out functions of the Housing Executive relating to housing benefit.

(4) An authorisation granted for the purposes of this Part to an individual of any of the descriptions mentioned in subsection (3) above—

- (a) shall be contained in a certificate provided to that individual as evidence of his entitlement to exercise powers conferred by this Part;
- (b) may contain provision as to the period for which the authorisation is to have effect; and
- (c) may restrict the powers exercisable by virtue of the authorisation so as to prohibit their exercise except for particular purposes, in particular circumstances or in relation to particular benefits or particular provisions of the relevant social security legislation.

(5) An authorisation granted under this section may be withdrawn at any time by the Department.

(6) Where the Department grants an authorisation for the purposes of this Part to an individual employed by the Housing Executive, or to an individual authorised to carry out functions of the Housing Executive relating to housing benefit—

- (a) the Department and the Housing Executive shall enter into such arrangements (if any) as they consider appropriate with respect to the carrying out of functions conferred on that individual by or in connection with the authorisation granted to him; and
- (b) the Department may make to the Housing Executive such payments (if any) as the Department thinks fit in respect of the carrying out by that individual of any such functions.

(7) The matters on which a person may be authorised to consider and report to the Department under section 128A below shall be taken to include the carrying out by any such individual as is mentioned in subsection (3)(b) or (c) above of any functions conferred on that individual by virtue of any grant by the Department of an authorisation for the purposes of this Part.

(8) The powers conferred by sections 103B and 103C below shall be exercisable in relation to persons holding office under the Crown and persons in the service of the Crown, and in relation to premises owned or

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occupied by the Crown, as they are exercisable in relation to other persons and premises.

### **103B Power to require information**

(1) An authorised officer who has reasonable grounds for suspecting that a person—

- (a) is a person falling within subsection (2) below, and
- (b) has or may have possession of or access to any information about any matter that is relevant for any one or more of the purposes mentioned in section 103A(2) above,

may, by written notice, require that person to provide all such information described in the notice as is information of which he has possession, or to which he has access, and which it is reasonable for the authorised officer to require for a purpose so mentioned.

(2) The persons who fall within this subsection are—

- (a) any person who is or has been an employer or employee within the meaning of any provision made by or under the Contributions and Benefits Act;
- (b) any person who is or has been a self-employed earner within the meaning of any such provision;
- (c) any person who by virtue of any provision made by or under that Act falls, or has fallen, to be treated for the purposes of any such provision as a person within paragraph (a) or (b) above;
- (d) any person who is carrying on, or has carried on, any business involving the supply of goods for sale to the ultimate consumers by individuals not carrying on retail businesses from retail premises;
- (e) any person who is carrying on, or has carried on, any business involving the supply of goods or services by the use of work done or services performed by persons other than employees of his;
- (f) any person who is carrying on, or has carried on, an agency or other business for the introduction or supply, to persons requiring them, of persons available to do work or to perform services;
- (g) any district council acting in its capacity as an authority responsible for the granting of any licence;
- (h) any person who is or has been a trustee or manager of a personal or occupational pension scheme;
- (i) any person who is or has been liable to make a compensation payment or a payment to the Department under Article 8 of the Social Security (Recovery of Benefits) (Northern Ireland)

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Order 1997 (payments in respect of recoverable benefits);  
and

(j) the servants and agents of any such person as is specified in any of paragraphs (a) to (i) above.

(3) The obligation of a person to provide information in accordance with a notice under this section shall be discharged only by the provision of that information, at such reasonable time and in such form as may be specified in the notice, to the authorised officer who—

(a) is identified by or in accordance with the terms of the notice, or

(b) has been identified, since the giving of the notice, by a further written notice given by the authorised officer who imposed the original requirement or another authorised officer.

(4) The power of an authorised officer under this section to require the provision of information shall include a power to require the production and delivery up and (if necessary) creation of, or of copies of or extracts from any such documents containing the information as may be specified or described in the notice imposing the requirement.

(5) No one shall be required under this section to provide any information (whether in documentary form or otherwise) that tends to incriminate either himself or, in the case of a person who is married, his spouse.

### **103C Powers of entry**

(1) An authorised officer shall be entitled, at any reasonable time and either alone or accompanied by such other persons as he thinks fit, to enter any premises which—

(a) are liable to inspection under this section; and

(b) are premises to which it is reasonable for him to require entry in order to exercise the powers conferred by this section.

(2) An authorised officer who has entered any premises liable to inspection under this section may—

(a) make such an examination of those premises, and

(b) conduct any such inquiry there,

as appears to him appropriate for any one or more of the purposes mentioned in section 103A(2) above.

(3) An authorised officer who has entered any premises liable to inspection under this section may—

(a) question any person whom he finds there;

(b) require any person whom he finds there to do any one or more of the following—

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- (i) to provide him with such information,
  - (ii) to produce and deliver up and (if necessary) create such documents or such copies of, or extracts from, documents, as he may reasonably require for any one or more of the purposes mentioned in section 103A(2) above; and
  - (c) take possession of and either remove or make his own copies of any such documents as appear to him to contain information that is relevant for any of those purposes.
- (4) The premises liable to inspection under this section are any premises (including premises consisting in the whole or a part of a dwelling house) which an authorised officer has reasonable grounds for suspecting are—
- (a) premises which are a person's place of employment;
  - (b) premises from which a trade or business is being carried on or where documents relating to a trade or business are kept by the person carrying it on or by another person on his behalf;
  - (c) premises from which a personal or occupational pension scheme is being administered or where documents relating to the administration of such a scheme are kept by the person administering the scheme or by another person on his behalf;
  - (d) premises where a person who is the compensator in relation to any such accident, injury or disease as is referred to in section 103A(2)(b) above is to be found;
  - (e) premises where a person on whose behalf any such compensator has made, may have made or may make a compensation payment is to be found.
- (5) An authorised officer applying for admission to any premises in accordance with this section shall, if required to do so, produce the certificate containing his authorisation for the purposes of this Part.
- (6) Subsection (5) of section 103B applies for the purposes of this section as it applies for the purposes of that section.”.

*Exercise of powers on behalf of the Housing Executive*

- 3.** For sections 104A and 104B (inspectors appointed by the Housing Executive for the purposes of housing benefit) there shall be substituted—

**“104A Authorisations by the Housing Executive**

- (1) An individual who for the time being has the authorisation of the Housing Executive for the purposes of this Part (“a Housing Executive authorisation”) shall be entitled, for any one or more of the purposes

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mentioned in subsection (2) below, to exercise any of the powers which, subject to subsection (7) below, are conferred on an authorised officer by sections 103B and 103C above.

(2) Those purposes are—

- (a) ascertaining in relation to any case whether housing benefit is or was payable in that case;
- (b) ascertaining whether provisions of the relevant social security legislation that relate to housing benefit are being, have been or are likely to be contravened (whether by particular persons or more generally);
- (c) preventing, detecting and securing evidence of the commission (whether by particular persons or more generally) of benefit offences relating to housing benefit.

(3) An individual has the authorisation for the purposes of this Part of the Housing Executive if, and only if, the Housing Executive has granted him an authorisation for those purposes and he is—

- (a) an individual employed by the Housing Executive;
- (b) an individual authorised to carry out functions of the Housing Executive relating to housing benefit; or
- (c) an official of a government department.

(4) Subsection (4) of section 103A above shall apply in relation to a Housing Executive authorisation as it applies in relation to an authorisation under that section.

(5) A Housing Executive authorisation may be withdrawn at any time by the Housing Executive or by the Department.

(6) It shall be the duty of the Housing Executive to comply with any directions of the Department as to—

- (a) whether or not Housing Executive authorisations are to be granted by the Housing Executive;
- (b) the period for which authorisations granted by the Housing Executive are to have effect;
- (c) the number of persons who may be granted authorisations by the Housing Executive at any one time; and
- (d) the restrictions to be contained by virtue of subsection (4) above in the authorisations granted by the Housing Executive for those purposes.

(7) The powers conferred by sections 103B and 103C above shall have effect in the case of an individual who is an authorised officer by virtue of this section as if those sections had effect—

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- (a) with the substitution for every reference to the purposes mentioned in section 103A(2) above of a reference to the purposes mentioned in subsection (2) above; and
- (b) with the substitution for every reference to the relevant social security legislation of a reference to so much of it as relates to housing benefit.”.

#### *Consequential amendments*

**4.** In section 105 (delay, obstruction etc. of inspector)—

- (a) in subsection (3), for “section 104(5)” there shall be substituted “an authorisation granted under section 103A or 104A”; and
- (b) in subsection (4)—
  - (i) for “section 104(5) above any power conferred by section 104 above” there shall be substituted “an authorisation granted under section 103A or 104A above, any power conferred by section 103B or 103C above”; and
  - (ii) for the words “section 104”, where they occur at the end of the subsection, there shall be substituted “sections 103B and 103C”.

**5.** In section 105A(1) (dishonest representations for obtaining benefit etc.), before “social security legislation” there shall be inserted “relevant”.

**6.** In section 106(1) (false representations for obtaining benefit etc.), before “social security legislation” there shall be inserted “relevant”.

**7.—(1)** In section 107(1) (breach of regulations) for “section 104 above” there shall be substituted “this section”.

**(2)** After that subsection there shall be inserted—

“(1A) The legislation to which this section applies is—

- (a) the relevant social security legislation; and
- (b) the statutory provisions specified in section 115CA(1) so far as relating to contributions, statutory sick pay or statutory maternity pay.”.

**8.** After section 115C (but still in Part VI) there shall be inserted—

#### **“115CA Interpretation of Part VI**

(1) In this Part “the relevant social security legislation” means the provisions of any of the following, except so far as relating to contributions, working families' tax credit, disabled person's tax credit, statutory sick pay or statutory maternity pay, that is to say—

- (a) the Contributions and Benefits Act;

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- (b) this Act;
- (c) the Pensions Act, except Part III;
- (d) Article 9 of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994;
- (e) the Jobseekers (Northern Ireland) Order 1995;
- (f) the Social Security (Recovery of Benefits) (Northern Ireland) Order 1997;
- (g) Parts II and V of the Social Security (Northern Ireland) Order 1998;
- (h) Part VI of the Welfare Reform and Pensions (Northern Ireland) Order 1999;
  - (i) the Social Security Pensions (Northern Ireland) Order 1975;
- (j) the Social Security Act 1973;
- (k) any statutory rule or statutory instrument made, or having effect as if made, under any statutory provision specified in paragraphs (a) to (j) above.

(2) In this Part “authorised officer” means a person acting in accordance with any authorisation for the purposes of this Part which is for the time being in force in relation to him.

(3) For the purposes of this Part—

- (a) references to a document include references to anything in which information is recorded in electronic or any other form;
- (b) the requirement that a notice given by an authorised officer be in writing shall be taken to be satisfied in any case where the contents of the notice—
  - (i) are transmitted to the recipient of the notice by electronic means; and
  - (ii) are received by him in a form that is legible and capable of being recorded for future reference.

(4) In this Part “premises” includes—

- (a) moveable structures and vehicles, vessels, aircraft and hovercraft;
- (b) installations that are offshore installations for the purposes of the Mineral Workings (Offshore Installations) Act 1971; and
- (c) places of all other descriptions whether or not occupied as land or otherwise,

and references in this Part to the occupier of any premises shall be construed, in relation to premises that are not occupied as land, as references to any person for the time being present at the place in question.



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(5) In this Part—

“benefit” includes any allowance, payment, credit or loan;

“benefit offence” means a criminal offence committed in connection with a claim for benefit under a provision of the relevant social security legislation, or in connection with the receipt or payment of such a benefit; and

“compensation payment” has the same meaning as in the Social Security (Recovery of Benefits) (Northern Ireland) Order 1997.

(6) In this Part—

(a) any reference to a person authorised to carry out any function relating to housing benefit shall include a reference to a person providing services relating to that benefit directly or indirectly to the Housing Executive; and

(b) any reference to the carrying out of a function relating to housing benefit shall include a reference to the provision of any services relating to it.”.

9. In Schedule 7 to the Administration Act (supplementary benefits, etc.), in paragraph 4 for the words before sub-paragraph (a) there shall be substituted “Part VI of this Act shall have effect as if the following statutory provisions were included in the statutory provisions comprised in the relevant social security legislation”.