

*These notes refer to the Social Security Fraud Act (Northern Ireland)  
2001 (c.17) which received Royal Assent on 15 November 2001*

# Social Security Fraud Act (Northern Ireland) 2001

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *Section 2: Electronic access to information*

*Section 2* provides that the Department and the Housing Executive can require organisations to enter into arrangements so that the information can be provided electronically on-line where facilities exist to provide such access. For example, credit reference agencies provide direct on-line access to their databases instead of processing enquiries in writing. The section provides that only those officers especially authorised can use such on-line facilities. This section enables the Department and the Housing Executive to require the provision of audit trail information in the arrangements in order to ensure that officers' use of the system can be thoroughly monitored. The Housing Executive is prevented from requiring an organisation to provide on-line facilities without the consent of the Department. It is also prevented from entering into a voluntary arrangement for on-line access to private information without the Department's consent.

*Section 2(1)* inserts section 103BA into the Administration Act.

*Section 103BA(1)* provides that, subject to subsection (2), where it appears to the Department:

- that any person listed in section 103B(2A) keeps any electronic records;
  - that those records may contain information relevant to any one or more of the purposes at 103A(2); and
  - that electronic access to those records is, or is capable of being, provided;
- the Department may require that person to enter into arrangements under which authorised officers are allowed access to those records.

*Section 103BA(2)(a)* provides that an authorised officer may only obtain information under the arrangements at 103BA(1) if his authorisation explicitly states that it applies for the purposes of that subsection.

*Section 103BA(2)(b)* provides that an authorised officer may only obtain information under the arrangements provided for by subsection (1) where the

information relates to a particular person and where it is information that they have the power to obtain under provisions at section 103B.

*Section 103BA(3)* sets out the matters which may be included in arrangements made under subsection (1).

*Section 103BA(4)* provides that an authorised officer who is allowed access to electronic records in accordance with any arrangements entered into under subsection (1) may make copies of, and take extracts from, those records.

*Section 2(2)* inserts section 104AA into the Administration Act.

*Section 104AA* enables the Housing Executive, with the consent of the Department to make arrangements for electronic access to information in relation to HB claims.

*Section 104AA(1)* provides that, subject to subsection (2), where it appears to the Housing Executive that:

- any person listed in section 103B(2A) keeps any electronic records;
- that those records may contain information relevant to any one or more of the purposes at 104A(2); and
- that electronic access to those records is, or is capable of being, provided;

the Housing Executive may require that person to enter into arrangements under which authorised officers are allowed access to those records.

*Section 104AA(2)(a)* provides that an authorised officer may only obtain information under the arrangements at subsection (1) if his authorisation explicitly states that it applies for the purposes of that subsection.

*Section 104AA(2)(b)* provides that the authorised officer may not obtain information under the arrangements at subsection (1) unless the information relates to a particular person and it is information that he has the power to obtain under section 103B as applied to him by section 104A(7).

*Section 104AA(3)* provides for the matters which may be included in arrangements made under subsection (1).

*Section 104AA(4)* provides that an authorised officer who is able to access records in accordance with arrangements under subsection (1) may make copies of, and take extracts from, those records.

*Section 104AA(5)* provides that the Housing Executive may only require a person to enter into arrangements for giving authorised officers electronic access to records if it has the consent of the Department. It also provides that the Housing Executive may not enter into arrangements with a person specified in section 103B(2A) to give persons acting on behalf of the Housing Executive electronic access to private information (otherwise than in accordance with the requirement imposed under this section) unless it has the consent of the Department. In either case, the arrangements entered into may be subject to

any conditions imposed by the Department when it gives consent. “Private information” is defined in section 104AA(7) as any information held by a person who is not entitled to disclose it except in compliance with a requirement imposed by the Housing Executive in exercise of its statutory powers.

*Section 104AA(6)* provides that, for the purposes of subsection (5), consent may be given in relation to a particular case, or to any case that falls within a particular description of cases.

*Section 2(3)* amends section 105 of the Administration Act.

*Section 105(1)* provides for any person found guilty of obstruction or delay to be liable on summary conviction to a fine not exceeding level 3 on the standard scale. That is currently up to a £1,000 fine. Section 105(2) provides that, where a person who is convicted under section 105(1)(b) continues to refuse to provide required information or to answer questions, he will be guilty of a further offence. On summary conviction he will be fined £40 for every day thereafter that the requirement to provide information is not met.

*Section 2(3)(a)* amends section 105(1) to provide that the offence at section 105 also applies where a person refuses or neglects to comply with any requirements under sections 103BA and 104AA.

*Section 2(3)(b)* provides that the provisions at section 105(2) apply to requirements under sections 103BA and 104AA.