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## STATUTORY INSTRUMENTS

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# 1997 No. 1182

## The Social Security Administration (Fraud) (Northern Ireland) Order 1997

### *Administration of housing benefit*

#### **Overseeing of administration by Department**

5. After section 128 of the Administration Act insert—

#### *“Reports*

#### **Persons to report on administration.**

**128A.**—(1) The Department may authorise persons to consider and report to it on the administration by the Housing Executive of housing benefit and, in particular, the Executive's performance in the prevention and detection of fraud relating to that benefit.

(2) A person may be authorised under subsection (1) above on such terms and for such period as the Department thinks fit.

#### **Powers of investigation.**

**128B.**—(1) A person authorised under section 128A(1) above—

- (a) has a right of access at all reasonable times to any document relating to the administration of housing benefit;
- (b) is entitled to require from any person holding or accountable for any such document such information and explanation as he thinks necessary; and
- (c) is entitled, if he thinks it necessary, to require any such person to produce any such document or to attend before him in person to give such information or explanation.

(2) A person authorised under section 128A(1) above is entitled to require any officer or member of the Housing Executive or any person involved in the administration of housing benefit for the Executive—

- (a) to give him such information and explanation relating to the administration of housing benefit as he thinks necessary; and
- (b) if he thinks it necessary, to require any such person to attend before him in person to give the information or explanation.

(3) A person who without reasonable excuse fails to comply with a requirement under subsection (1) or (2) above is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) A person authorised under section 128A(1) above may—

- (a) require any document or information which is to be given to him under subsection (1) or (2) above to be given in any form reasonably specified by him; and

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(b) take copies of any document produced to him.

(5) In this section “document” means anything in which information of any description is recorded.

### **Reports.**

**128C.**—(1) A report about the Housing Executive by a person authorised under section 128A(1) above may include recommendations about improvements which could be made by the Executive in its administration of housing benefit and, in particular, in the prevention and detection of fraud relating to that benefit.

(2) When the Department receives a report about the Housing Executive from a person authorised under section 128A(1) above, it shall send a copy to the Executive.”.

### **Role of local government auditors in relation to housing benefit**

**6.**—(1) The Department may request<sup>[F1]</sup> the Comptroller and Auditor General for Northern Ireland<sup>[F1]</sup> to conduct or assist the Department in conducting studies designed to improve economy, efficiency, effectiveness and quality of performance in the discharge by the Housing Executive of functions relating to the administration of housing benefit.

(2) In the following provisions of this Article “study” means a study which<sup>[F1]</sup> the Comptroller and Auditor General for Northern Ireland<sup>[F1]</sup> is requested to conduct, or assist the Department in conducting, under paragraph (1).

(3) If<sup>[F1]</sup> the Comptroller and Auditor General for Northern Ireland<sup>[F1]</sup> requires the Housing Executive or any officer or member of the Executive to supply him or an authorised person with such information as is needed for the purposes of the study, the Executive or officer or member shall supply the information.

(4) If<sup>[F1]</sup> the Comptroller and Auditor General for Northern Ireland<sup>[F1]</sup> requires the Housing Executive to make available for inspection by him or by an authorised person documents which relate to the Executive and are needed for the purposes of the study, the Executive shall make the documents available.

(5) Any information obtained under a requirement under paragraph (3) or (4) may be disclosed by<sup>[F1]</sup> the Comptroller and Auditor General for Northern Ireland<sup>[F1]</sup> to the Department for the purposes of any of its functions which are connected with housing benefit.

(6) In paragraphs (3) and (4) “authorised person” means a person authorised by<sup>[F1]</sup> the Comptroller and Auditor General for Northern Ireland<sup>[F1]</sup> for the purposes of this Article.

(7) <sup>[F1]</sup>The Comptroller and Auditor General for Northern Ireland<sup>[F1]</sup> shall send to the Department a copy of any report of a study; and the Department or a local government auditor may send a copy of a report of a study to the Housing Executive.

(8) Any report of a study may be published by the Department.

(9) <sup>[F1]</sup>The Comptroller and Auditor General for Northern Ireland<sup>[F1]</sup> shall not conduct, or assist the Department in conducting, a study unless, before he does so, the Department has made arrangements for the payment of such reasonable amount as may be agreed between it and<sup>[F1]</sup> The Comptroller and Auditor General for Northern Ireland<sup>[F1]</sup> in respect of the study.

(10) The Department may supply to<sup>[F1]</sup> the Comptroller and Auditor General for Northern Ireland<sup>[F1]</sup> any information held by it which relates to housing benefit and which appears to it to be relevant to the exercise of any function of<sup>[F1]</sup> the Comptroller and Auditor General for Northern Ireland<sup>[F1]</sup>.

**F1** 2003 NI 5

## References and reports to Department

7.—(1) [<sup>F2</sup>The Comptroller and Auditor General for Northern Ireland]<sup>F2</sup> may refer to the Department any matter arising from any audit or study if it appears that it may be relevant for the purposes of any of the functions of the Department relating to social security.

*Para. (2) rep. by 2003 NI 5*

**F2** 2003 NI 5

## Directions by Department

8. After section 128C of the Administration Act (inserted by Article 5) insert—

### *“Directions by Department*

#### **Directions.**

**128D.**—(1) This section applies where—

- (a) a copy of a report has been sent to the Housing Executive under section 128C(2) above;
- (b) a copy of a report has been sent to the Housing Executive under Article 21 of the Housing (Northern Ireland) Order 1981 and to the Department under Article 7(2) of the Social Security Administration (Fraud) (Northern Ireland) Order 1997; or
- (c) a copy of a report has been sent to the Housing Executive under Article 6(7) of the Social Security Administration (Fraud) (Northern Ireland) Order 1997.

(2) The Department may invite the Housing Executive to consider the report and to submit proposals for—

- (a) improving the Executive's performance in relation to the prevention and detection of fraud relating to housing benefit or otherwise in relation to the administration of that benefit; and
- (b) remedying any failings identified by the report.

(3) After considering the report and any proposals made by the Housing Executive in response to it, the Department may give directions to the Executive as to —

- (a) standards which the Executive is to attain in the prevention and detection of fraud relating to housing benefit or otherwise in the administration of that benefit; and
- (b) the time within which the standards are to be attained.

(4) When giving directions to the Housing Executive under subsection (3) above, the Department may make recommendations to the Executive setting out any course of action which the Department thinks the Executive might take to attain the standards which it is directed to attain.”.

## Enforcement of directions

9. After section 128D of the Administration Act (inserted by Article 8) insert—

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**“Information about attainment of standards.**

**128E.**—(1) Where directions have been given to the Housing Executive under section 128D(3) above, the Department may require the Executive to supply to it any information which the Department considers may assist it in deciding—

- (a) whether the Executive has attained the standards which it has been directed to attain; or
- (b) whether the Executive is likely to attain those standards within the time specified in the directions.

(2) Information shall be supplied under subsection (1) above in such manner and form as the Department may require.

**Enforcement notices.**

**128F.**—(1) Where directions have been given to the Housing Executive under section 128D(3) above and the Department—

- (a) is not satisfied that the Executive has attained the standards which it has been directed to attain; or
- (b) is not satisfied that the Executive is likely to attain those standards within the time specified in the directions,

the Department may serve on the Executive a written notice under this section.

(2) The notice shall—

- (a) identify the directions and state why the Department is not satisfied as mentioned in paragraph (a) or (b) of subsection (1) above; and
- (b) require the Housing Executive to submit a written response to the Department within a time specified in the notice.

(3) If any person (other than the Housing Executive) carrying out work relating to the administration of housing benefit may be affected by any determination which may be made under section 128G below, the Executive shall—

- (a) consult that person before submitting its response; and
- (b) include in its response any relevant observations made by that person.

(4) The Housing Executive's response shall either—

- (a) state that the Executive has attained the standards, or is likely to attain them within the time specified in the directions, and justify that statement; or
- (b) state that the Executive has not attained the standards, or is not likely to attain them within that time, and (if the Executive wishes) give reasons why a determination under section 128G below should not be made or should not include any particular provision.

(5) The notice may relate to any one or more matters covered by the directions.

(6) The serving of a notice under this section relating to any directions or matter does not prevent the serving of further notices under this section relating to the same directions or matter.

**Enforcement determinations.**

**128G.**—(1) Where, after the time specified in the notice under section 128F above has expired, the Department—

- (a) is not satisfied that the Housing Executive has attained the standards in question; or

(b) is not satisfied that the Executive is likely to attain those standards within the time specified in the directions,

the Department may make a determination under this section.

(2) The determination may be made whether or not the Housing Executive has responded to the notice under section 128F above.

(3) The determination shall be designed to secure the attainment of the standards in question and—

(a) shall include provision such as is specified in subsection (4) below; and

(b) may also include provision such as is specified in subsection (5) below.

(4) The provision referred to in paragraph (a) of subsection (3) above is provision that the Housing Executive must comply with specified requirements as to inviting, preparing, considering and accepting bids to carry out any work which—

(a) falls to be carried out in pursuance of the Executive's functions relating to the administration of housing benefit; and

(b) is of a description specified in the determination.

(5) The provision referred to in paragraph (b) of that subsection is provision of any one or more of the following kinds relating to the work, or any specified category of the work, to which the determination relates—

(a) provision that it may not be carried out by the Housing Executive;

(b) provision that it may not be carried out by any person (other than the Executive) who has been carrying it out; and

(c) provision that any contract made by the Executive with any person for carrying it out shall include terms requiring a level of performance which will secure, or contribute to securing, the attainment of the standards in question.

#### **Enforcement determinations: supplementary.**

**128H.**—(1) The provisions included in a determination under section 128G above shall take effect from a date specified in the determination; and different dates may be specified in relation to different provisions.

(2) The making of a determination under section 128G above in relation to any directions does not prevent the making of further determinations under that section in relation to the same directions.

(3) The provision included in a determination by virtue of section 1286(3) above may include—

(a) requirements that the Department be satisfied as to any specified matter; and

(b) requirements that the Department authorise or consent to any specified matter.

(4) The provision so included may also include provision as to the time at which any contract for the carrying out of work to which the determination relates (and which is not previously discharged) is to be taken to be frustrated by the determination.

(5) A determination under section 128G above shall have effect in spite of any statutory provision under or by virtue of which the Housing Executive is required or authorised to carry out any work to which the determination relates.”.

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- art. 5 and cross-heading repealed by [S.I. 2015/2006 \(N.I.\) Sch. 12 Pt. 1](#)