

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

EXPLANATORY NOTES

BACKGROUND AND POLICY OBJECTIVES

3. The Act makes provision for Northern Ireland corresponding to provisions of the Social Security Fraud Act 2001 (c.11). It is estimated that on a UK-wide basis fraud in social security benefits costs the taxpayer at least £2 billion every year. The Act seeks to implement proposals on tackling benefit fraud.
4. There are four main elements in the Act:

Obtaining and sharing information

- introduction of additional powers to obtain information from specified private and public sector organisations to tackle benefit fraud and error;
- changing the requirement on the Housing Executive to supply information to the Department or the Secretary of State for Work and Pensions from one based in regulations to one based on directions.

Loss of Benefit Provisions

- introduction of powers to reduce or withdraw specified benefits where an offender is convicted twice of benefit offences within a period of three years.

Penalties as an alternative to Prosecution

- introduction of a new discretionary power which will allow the Department and the authorities administering HB to offer a financial administrative penalty to an employer as an alternative to prosecution;
- introduction of powers to facilitate closer working between the Department and the authorities administering HB in the operation of the administrative penalty system.

Offences

- clarification of the offence of failing to notify a change of circumstances.

The current position

5. Benefit fraud occurs because people lie about their circumstances, or deliberately fail to tell the Department or the authorities administering HB about a relevant change. Cross-checking the information that claimants provide against independent sources of information helps to detect benefit fraud.
6. The Department already has powers to check information against that held by other government Departments for example, the Inland Revenue to detect fraud committed by people working whilst claiming means-tested benefits. The Department also has powers to obtain information from employers. However, if a person is working and claiming benefit, he may wish to conceal his earnings from the Inland Revenue as well as from the Department, or his employer may be colluding in his benefit fraud. Hence, the Act provides powers to cross-check information with additional independent sources, for example, with banks.
7. Information can already be obtained from independent sources with a claimant's consent, but people who lie to obtain benefit are unlikely to give this consent. Where benefit fraud is suspected, investigating officers can also ask organisations to provide them with any information for the purpose of the prevention and detection of crime under an exemption to data protection legislation set out in section 29 of the Data Protection Act 1998. However, they cannot compel organisations to provide information under the exemption. Many organisations are bound by a duty of confidentiality to their customers and are therefore uncertain whether they should provide information on this basis. Consequently, investigating officers obtain very little information in this way.