

**2007 No. 67**

**SOCIAL SECURITY**

**The Social Security Investigation Powers (Arrangements with Great Britain) Regulations (Northern Ireland) 2007**

*Made* - - - - *7th February 2007*

*Coming into operation* - *1st March 2007*

The Department for Social Development, being the Northern Ireland department having responsibility for social security, makes the following Regulations in exercise of the powers conferred by section 87(5) and (10) of the Northern Ireland Act 1998(a).

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Social Security Investigation Powers (Arrangements with Great Britain) Regulations (Northern Ireland) 2007 and shall come into operation on 1st March 2007.

(2) In these Regulations, “the 1992 Act” means the Social Security Administration (Northern Ireland) Act 1992(b).

**Amendment of Schedule 2 to the Social Security (Great Britain Reciprocal Arrangements) Regulations**

2.—(1) The Social Security (Great Britain Reciprocal Arrangements) Regulations (Northern Ireland) 1976(c) are amended as follows.

(2) In Part I of Schedule 2 (adaptations of certain provisions of the Social Security (Northern Ireland) Act 1975)—

- (a) in column 1, omit “Section 135(2)”;
- (b) in column 2, omit “Section 144(2)”;
- (c) in column 3, omit “Powers of inspectors”.

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(a) 1998 c. 47

(b) 1992 c. 8; sections 103A, 103B and 103C were substituted for section 104 by paragraph 2 of Schedule 6 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 c. 4 (N.I.) (“the 2000 Act”); section 103B was amended by section 1(2), (3) and (4) of the Social Security Fraud Act (Northern Ireland) 2001 c. 17 (N.I.) (“the 2001 Act”), Article 2(2), (3) and (4) of S.R. 2002 No. 408 and paragraph 116 of Schedule 24 to the Civil Partnership Act 2004 (c. 33); section 103BA was inserted by section 2(1) of the 2001 Act; section 104A was substituted (for a provision inserted by Article 11 of the Social Security Administration (Fraud) (Northern Ireland) Order 1997) by paragraph 3 of Schedule 6 to the 2000 Act, and amended by section 2(1) and the Schedule to the 2001 Act; section 104AA was inserted by section 2(2) of the 2001 Act; section 105 was amended by sections 1(6) and 2(3) of the 2001 Act, paragraph 4(2) and (3) of Schedule 4 to S.I. 1999/671, paragraph 4(2) of Schedule 1 to the National Insurance Contributions and Statutory Payments Act 2004 (c. 3) and paragraph 4 of Schedule 6 to the 2000 Act; section 109B was inserted by section 14(1) of the 2001 Act

(c) S. R. 1976 No. 196; relevant amending Regulations are S. R. 1999 No. 350

### **Single system of investigation powers; adaptations to the 1992 Act**

3.—(1) The arrangements for a single system of social security investigation powers in Great Britain and Northern Ireland set out in the Memorandum reproduced in Schedule 1 shall have effect in Northern Ireland.

(2) The 1992 Act shall have effect subject to such adaptations as may be required for the purpose of giving effect to those arrangements.

(3) In particular (and without prejudice to the generality of paragraph (2) and so far as may be required for the purpose mentioned in that paragraph)—

- (a) an act, omission or event referred to in a provision of the Great Britain legislation specified in column 2 of the table in Schedule 2 shall be deemed to be an act, omission or event under the provision of the 1992 Act specified in the corresponding paragraph of column 1 of that table; and
- (b) in the provisions specified in column 1 of that table—
  - (i) references to the Department shall be construed as including references to the Secretary of State, and
  - (ii) references to the Northern Ireland Housing Executive shall be construed as including an authority administering housing benefit or council tax benefit.

Sealed with the Official Seal of the Department for Social Development on 7th February 2007



*John O'Neill*

A senior officer of the Department for Social Development

**Memorandum of Arrangements relating to the creation of a single system  
of social security investigation powers in Great Britain and Northern  
Ireland**

*Introductory*

1. This Memorandum sets out arrangements made under section 87(2) of the Northern Ireland Act 1998(a) between the Secretary of State for Work and Pensions with the consent of the Treasury of the one part and the Department for Social Development in Northern Ireland with the consent of the Department of Finance and Personnel in Northern Ireland of the other part.

2. The arrangements set out in this Memorandum shall come into force on 1st March 2007.

*Interpretation*

3. In this Memorandum—

“1992 (GB) Act” means the Social Security Administration Act 1992(b);

“1992 (NI) Act” means the Social Security Administration (Northern Ireland) Act 1992;

“administrative penalty provisions” means—

(a) in relation to Great Britain, section 115B of the 1992 (GB) Act; and

(b) in relation to Northern Ireland, section 109B of the 1992 (NI) Act;

“authorised officer” means—

(a) in relation to Great Britain—

(i) an individual who, for any one or more of the purposes listed in section 109A(2) of the 1992 (GB) Act, has the authorisation of the Secretary of State to exercise any one or more of the powers conferred by sections 109B, 109BA and 109C of the 1992 (GB) Act, or

(ii) an individual who, for any one or more of the purposes listed in section 110A(2) of the 1992 (GB) Act, has the authorisation of an authority administering housing benefit or council tax benefit to exercise any one or more of the powers conferred by sections 110A and 110AA of the 1992 (GB) Act; and

(b) in relation to Northern Ireland—

(i) an individual who, for any one or more of the purposes listed in section 103A(2) of the 1992 (NI) Act, has the authorisation of the Department for Social Development in Northern Ireland to exercise any one or more of the powers conferred by sections 103B, 103BA and 103C of the 1992 (NI) Act, or

(ii) an individual who, for any one or more of the purposes listed in section 104A(2) of the 1992 (NI) Act, has the authorisation of the Northern Ireland Housing Executive to exercise any one or more of the powers conferred by sections 104A and 104AA of the 1992 (NI) Act;

“electronic record-keeper” means—

(a) in relation to Great Britain—

(a) 1998 c. 47. While section 1 of the Northern Ireland Act 2000 (c. 1) is in force, the power of a Northern Ireland Minister to make arrangements with the Secretary of State under section 87(2) of the Northern Ireland Act 1998 may be discharged by the department of which he was in charge: *see* paragraph 4(1)(b) of the Schedule to the Northern Ireland Act 2000

(b) 1992 c. 5

- (i) a person who keeps electronic records and who, for the purposes of section 109BA(1) of the 1992 (GB) Act, may be required by the Secretary of State to enter into arrangements to allow authorised officers access to those records, or
  - (ii) a person who keeps electronic records and who, for the purposes of section 110AA(1) of the 1992 (GB) Act, may be required by an authority administering housing benefit or council tax benefit to enter into arrangements to allow authorised officers access to those records; and
- (b) in relation to Northern Ireland—
- (i) a person who keeps electronic records and who, for the purposes of section 103BA(1) of the 1992 (NI) Act, may be required by the Department for Social Development in Northern Ireland to enter into arrangements to allow authorised officers access to those records, or
  - (ii) a person who keeps electronic records and who, for the purposes of section 104AA of the 1992 (NI) Act, may be required by the Northern Ireland Housing Executive to enter into arrangements to allow authorised officers access to those records;

“legislation” means—

- (a) in relation to Great Britain, the 1992 (GB) Act; and
- (b) in relation to Northern Ireland, the 1992 (NI) Act;

“relevant authority” means—

- (a) in relation to Great Britain, the Secretary of State or an authority administering housing benefit or council tax benefit; and
- (b) in relation to Northern Ireland, the Department for Social Development in Northern Ireland or the Northern Ireland Housing Executive;

“relevant criminal provision” means—

- (a) in relation to Great Britain, section 111 or 115 of the 1992 (GB) Act; and
- (b) in relation to Northern Ireland, section 105 or 109 of the 1992 (NI) Act;

“social security investigation powers” means—

- (a) in relation to Great Britain—
  - (i) the power to require by written notice that information be provided for the purposes of section 109B of the 1992 (GB) Act,
  - (ii) the power to obtain information in accordance with arrangements entered into for the purposes of sections 109BA and 110AA of the 1992 (GB) Act, and
  - (iii) the power to enter premises and exercise any one or more of the powers associated with such entry for the purposes of section 109C of the 1992 (GB) Act; and
- (b) in relation to Northern Ireland—
  - (i) the power to require by written notice that information be provided for the purposes of section 103B of the 1992 (NI) Act,
  - (ii) the power to obtain information in accordance with arrangements entered into for the purposes of sections 103BA and 104AA of the 1992 (NI) Act, and
  - (iii) the power to enter premises and exercise any one or more of the powers associated with such entry for the purposes of section 103C of the 1992 (NI) Act;

“stipulated purposes” means—

- (a) in relation to Great Britain, the purposes set out in sections 109A(2) and 110A(2) of the 1992 (GB) Act; and
- (b) in relation to Northern Ireland, the purposes set out in sections 103A(2) and 104A(2) of the 1992 (NI) Act;

“territory” means Great Britain or Northern Ireland, as the case may require.

4. In the application of this Memorandum to a territory, expressions used in this Memorandum shall (unless the context otherwise requires) have the same respective meanings as in the legislation that relates to that territory.

5. The rules for the construction of Acts of Parliament contained in the Interpretation Act 1978(a) shall apply for the purposes of the interpretation of this Memorandum as they apply for the purposes of the interpretation of an Act of Parliament.

*Single system of social security investigation powers*

6. Social security investigation powers shall operate as a single system in Great Britain and Northern Ireland.

7. The following arrangements in particular shall apply (but without prejudice to the generality of paragraph 6).

*Powers of authorised officers*

8. Where an authorised officer has authorisation to exercise any one or more of the social security investigation powers for any one or more of the stipulated purposes of the legislation in one territory, he shall be treated as having authorisation to exercise for the same purposes the equivalent social security investigation powers in the other territory.

9. Any restrictions on the powers exercisable by virtue of his authorisation which apply in one territory are also to apply in the other territory.

*Obligations of electronic record-keepers*

10. A relevant authority in one territory may require an electronic record-keeper in the other territory to enter into arrangements under which authorised officers are allowed access to its electronic records; and where it does so, that requirement shall be treated for the purposes of the legislation of the other territory as a requirement of a relevant authority in that other territory.

*Enforcement: criminal offences and administrative penalties*

11.—(1) This paragraph applies where—

- (a) an authorised officer authorised to exercise any of the social security investigation powers in one territory exercises the equivalent social security investigation powers in the other territory (see paragraph 8); or
- (b) a relevant authority in one territory requires an electronic record-keeper in the other territory to enter into arrangements under which authorised officers are allowed access to its electronic records (see paragraph 10).

(2) An act, omission or event in relation to the authorised officer shall be treated for the purposes of—

- (a) a relevant criminal provision; and
- (b) the administrative penalty provisions,

as if it occurred in relation to an officer who is authorised by a relevant authority in the territory where the act, omission or event occurred.

(3) An act, omission or event in relation to the relevant authority shall be treated for the purposes of—

- (a) a relevant criminal provision; and
- (b) the administrative penalty provisions,

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(a) 1978 c. 30

as if it occurred in relation to a relevant authority in the territory where the act, omission or event occurred.

Signed

9th January 2007

*James Plaskitt*  
Parliamentary Under Secretary of State  
Department for Work and Pensions

We consent

15th January 2007

*Frank Roy*  
*Claire M. Ward*  
Lords Commissioners of Her Majesty's Treasury

Signed

22nd January 2007

*John O'Neill*  
Department for Social Development in Northern Ireland

I consent

24th January 2007

*Jackie Layberry*  
Department of Finance and Personnel for Northern Ireland

SCHEDULE 2

Regulation 3(3)

TABLE OF CORRESPONDING PROVISIONS

<p><b>1</b>  <b>Provision</b>  <b>of the Social Security</b>  <b>Administration (Northern</b>  <b>Ireland) Act 1992</b></p>	<p><b>2</b>  <b>Provision of the Social</b>  <b>Security Administration Act</b>  <b>1992</b></p>	<p><b>3</b>  <b>Subject Matter</b></p>
Section 103A	Section 109A	Authorisations for investigators
Section 103B	Section 109B	Power to require information
Section 103BA	Section 109BA	Power for Secretary of State, or the Department, to require electronic access to information
Section 103C	Section 109C	Powers of entry
Section 104A	Section 110A	Authorisations by local authorities or the Northern Ireland Housing Executive
Section 104AA	Section 110AA	Power of local authority, or the Northern Ireland Housing Executive, to require electronic access to information
Section 105	Section 111	Offence of delay, obstruction etc. of an authorised officer
Section 109	Section 115	Offences by bodies corporate: also guilty in certain circumstances
Section 109B	Section 115B	Penalty as alternative to prosecution: colluding employers etc.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations give effect in Northern Ireland to arrangements for a single system of social security investigation powers in Great Britain and Northern Ireland (“the Arrangements”) made between the Secretary of State for Work and Pensions (in relation to Great Britain) and the Department for Social Development in Northern Ireland (in relation to Northern Ireland). The Arrangements are set out in a Memorandum reproduced in Schedule 1 to the Regulations.

The Regulations and the Arrangements replace and expand those that previously existed between Great Britain and Northern Ireland as regards powers of inspectors in matters of social security. Regulation 2 therefore amends the Social Security (Great Britain Reciprocal Arrangements) Regulations (Northern Ireland) 1976 (S.R. 1976 No. 196) by omitting the references to powers of inspectors contained in Schedule 2 to those Regulations. The revised Arrangements will apply to certain benefits (for example, income support and jobseeker’s allowance) which fall outside the scope of the 1976 Regulations.

Regulation 3 gives effect in Northern Ireland to the Arrangements, and provides for the adaptation of the Social Security Administration (Northern Ireland) Act 1992 (“the 1992 (NI) Act”) so far as may be required for the purpose of giving them effect, in particular by deeming an act, omission or event referred to in a provision of the Social Security Administration Act 1992 (“the 1992 (GB) Act”) indicated in column 2 of the table in Schedule 2 to be an act, omission or event under the corresponding provision of the 1992 (NI) Act indicated in column 1 of that table.

The Regulations (together with the Arrangements) will mean in particular that—

where an officer has authorisation in Great Britain to exercise social security investigation powers under the 1992 (GB) Act, he is to be treated as having authorisation in the same terms in Northern Ireland for the purposes of the equivalent provision of the 1992 (NI) Act;

the Secretary of State or an authority administering housing benefit or council tax benefit may require persons in Northern Ireland listed in section 103B(2A) of the 1992 (NI) Act who keep electronic records to enter into arrangements to allow authorised officers to have access to those records, and for this to be treated as a requirement made by the Department for Social Development in Northern Ireland under section 103BA (or, as the case may be, the Northern Ireland Housing Executive under section 104AA) of the 1992 (NI) Act; and

where a person obstructs in Northern Ireland a social security investigation being carried out for the purposes of the 1992 (GB) Act, or provides false information to the authorised officer, this can form the basis of an offence under provisions such as section 105 of the 1992 (NI) Act. As an alternative to a criminal prosecution in those circumstances, an administrative penalty could be imposed under section 109B of the 1992 (NI) Act.

The Social Security Investigation Powers (Arrangements with Northern Ireland) Regulations 2007 give effect to the Arrangements in Great Britain.

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