

2007 No. 271

SOCIAL SECURITY

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

<i>Made</i> - - - - -	<i>5th February 2007</i>
<i>Laid before Parliament</i>	<i>8th February 2007</i>
<i>Coming into force</i> -	<i>1st March 2007</i>

The Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by section 87(4) and (9) of the Northern Ireland Act 1998(a), makes the following Regulations.

Citation, commencement, interpretation

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

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

[Regulation 2 amends Schedule 2 of S.I. 1976/1003.]

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 Great Britain.

(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 Northern Ireland legislation specified in column 2 of the table in Schedule 2 shall be deemed

(a) 1998 c. 47.

(b) 1992 c. 5. Sections 109A, 109B and 109C were substituted for section 110, as originally enacted, by section 67 and paragraphs 1 and 2 of Schedule 6 to the Child Support, Pensions and Social Security Act 2000, c.19 (“the 2000 Act”). Section 109B(2A) to (2F) and (6) to (7) were inserted by sections 1(1), (2) and (4) of the Social Security Fraud Act 2001, c.11 (“the 2001 Act”). Section 109B(5) was amended by section 1(3) of the 2001 Act. Relevant amendments were made to section 109B(2A), (7) and (7A) by S.I. 2002/817. Section 109BA was inserted by section 2(1) of the 2001 Act. Section 110A was substituted (for a provision inserted by the Social Security Administration (Fraud) Act 1997, c. 47) by section 67 of and paragraphs 1 and 3 of Schedule 6 to the 2000 Act, and was amended by the 2001 Act. Section 110AA was inserted by section 2(2) of the 2001 Act. Relevant amendments were made to section 111 by the Social Security Contributions (Transfer of Functions etc.) Act 1999, the 2000 Act and the 2001 Act. Section 115 was amended by paragraph 55 of Schedule 2 to the Jobseekers Act 1995. Section 115B was inserted by sections 1(1) and 15(1) of the 2001 Act.

- 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 Secretary of State shall be construed as including references to the Department for Social Development in Northern Ireland, and
 - (ii) references to an authority administering housing benefit or council tax benefit shall be construed as including the Northern Ireland Housing Executive.

Signed by authority of the Secretary of State for Work and Pensions.

5th February 2007

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

SCHEDULE 1

Regulation 3(1)

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(c);

“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 1998 Act may be discharged by the department of which he was in charge: *see* paragraph 4(1)(b) of the Schedule to the 2000 Act.

(b) 1992 c. 5.

(c) 1992 c. 8.

- (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) 1978 c. 30.

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

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

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations give effect in Great Britain 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 (Northern Ireland Reciprocal Arrangements) Regulations 1976 (SI 1976/1003) 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 Great Britain to the Arrangements, and provides for the adaptation of the Social Security Administration Act 1992 (“the 1992 (GB) 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 (Northern Ireland) Act 1992 (“the 1992 (NI) 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 (GB) 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 Northern Ireland to exercise social security investigation powers under the 1992 (NI) Act, he is to be treated as having authorisation in the same terms in Great Britain for the purposes of the equivalent provision of the 1992 (GB) Act;
- the Department for Social Development in Northern Ireland or the Northern Ireland Housing Executive may require persons in Great Britain listed in section 109B(2A) of the 1992 (GB) 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 Secretary of State under section 109BA (or, as the case may be, an authority administering housing benefit or council tax benefit under section 110AA) of the 1992 (GB) Act; and
- where a person obstructs in Great Britain a social security investigation being carried out for the purposes of the 1992 (NI) Act, or provides false information to the authorised officer, this can form the basis of an offence under provisions such as section 111 of the 1992 (GB) Act. As an alternative to a criminal prosecution in those circumstances, an administrative penalty could be imposed under section 115B of the 1992 (GB) Act.

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

These Regulations give effect to amendments to an existing regulatory regime and have only a negligible impact on business, charities and the voluntary sector, so a full regulatory impact assessment is unnecessary.