



# Social Security Administration (Northern Ireland) Act 1992

## 1992 CHAPTER 8

### PART VIII

#### ARRANGEMENTS FOR HOUSING BENEFIT

##### *Housing benefit*

#### **126 Arrangements for housing benefit.**

- (1) Housing benefit provided by virtue of a scheme under section 122 of the Contributions and Benefits Act (in this Act referred to as “the housing benefit scheme”)—
  - (a) is to be in the form of a rate rebate, if it is in respect of payments by way of rates;
  - (b) is to be in the form of a rent rebate, if it is in respect of payments, other than payments by way of rates, to be made to the Housing Executive; and
  - (c) is in any other case to be in the form of a rent allowance.
- (2) The rebates and allowances referred to in subsection (1) above may take any of the following forms, that is to say—
  - (a) a payment or payments by the Housing Executive or the Department of the Environment, as the case may be, to the person entitled to the benefit; and
  - (b) a reduction in the amount of any payments which that person is liable to make to the Housing Executive or the Department of the Environment, as the case may be, by way of rent or rates; or
  - (c) such a payment or payments and such a reduction;and in any statutory provision (whenever passed or made) “pay”, in relation to housing benefit, includes discharge in any of those forms.
- (3) Housing benefit shall be administered by—

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- (a) the Housing Executive in so far as it relates to persons who are tenants of the Executive, private tenants or tenants of registered housing associations;
  - (b) the Department of the Environment in so far as it relates to persons who own and occupy their dwellings.
- (4) Regulations may provide that in prescribed cases a payment made by a person entitled to a rent allowance shall be treated for the purposes of subsection (1)(a) above as being, to such extent as may be prescribed, a payment by way of rates.
- (5) Circumstances may be prescribed in which a rate rebate may be treated as if it fell to be paid as a rent allowance.
- (6) In this section—
- “private tenants” means tenants under any tenancy except—
    - (a) a tenancy under which the estate of the landlord belongs to—
      - (i) the Housing Executive; or
      - (ii) a registered housing association;
    - (b) a tenancy the purpose of which is to confer on the tenant the right to occupy a dwelling-house for a holiday;
  - “registered housing association” means a housing association registered in the register maintained under <sup>F1</sup>Part II of the Housing (Northern Ireland) Order 1992 <sup>M1</sup>.

#### Textual Amendments

**F1** Words in definition in s. 126(6) substituted (15.9.1992) by [S.I. 1992/1725 \(N.I. 15\)](#), art. 107, **Sch. 8**, para.6.

#### Modifications etc. (not altering text)

**C1** [S. 126\(2\)\(3\)\(b\)](#): functions transferred (1.12.1999) from the Department of the Environment to the Department of Finance and Personnel by [S.R. 1999/481](#), art. 6(b), **Sch. 4 Pt. II**

#### Marginal Citations

**M1** [S.I. 1992/1725](#)

## 127 Housing benefit finance.

- (1) The Department shall in respect of each financial year pay to the Housing Executive a grant towards the expenditure incurred or to be incurred by the Executive in that year under this Part (including, if the Department so determines, an amount towards the cost of administering housing benefit).
- (2) The amount of the grant under subsection (1) above which is to be paid to the Housing Executive shall be such as the Department may, with the approval of the Department of Finance and Personnel, determine.
- (3) A grant under subsection (1) above shall be payable by the Department at such time and in such manner as the Department may think fit.

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#### Modifications etc. (not altering text)

**C2** S. 127(2)(3) applied (2.7.2001) by 2000 c. 4 (N.I.), s. 61(2) (with s. 66(6)); S.R. 2001/249, art. 2(a)

## 128 Claims etc.

- (1) Unless the Department otherwise determines, a grant under section 127 above shall not be payable until the Housing Executive has made a claim for it in such form as the Department may determine.
- (2) The Department may withhold from the Housing Executive so much of any grant under section 127 above as it thinks fit until either—
  - (a) the Executive has supplied it with prescribed particulars relating to its claim for a grant and complied with prescribed conditions as to records, certificates, audit or otherwise; or
  - (b) the Department is satisfied that there is a good reason for the Executive's failure to supply those particulars or comply with those conditions.
- (3) If the Housing Executive fails to make a claim for a grant within such period as the Department considers reasonable, the Department may withhold from the Executive such part of the grant as it thinks fit for so long as it thinks fit.
- (4) Where the amount of the grant paid to the Housing Executive for any year is found to be incorrect, the amount payable to it for any subsequent year may be adjusted for the purpose of rectifying that mistake in whole or in part.

*[<sup>F2</sup>Reports]*

#### Textual Amendments

**F2** Ss. 128A-128C and the preceding *cross-heading* inserted (1.7.1997) by S.I. 1997/1182 (N.I. 11), art. 5; S.R. 1997/316, art. 2, Sch.

## <sup>F3</sup>128A Persons to report on administration.

- (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.]

#### Textual Amendments

**F3** Ss. 128A-128C and the preceding *cross-heading* inserted (1.7.1997) by S.I. 1997/1182 (N.I. 11), art. 5; S.R. 1997/316, art. 2, Sch.

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#### [<sup>F4</sup>128B Powers of investigation.

- (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
  - (b) take copies of any document produced to him.
- (5) In this section “document” means anything in which information of any description is recorded.]

#### Textual Amendments

**F4** Ss. 128A-128C and the preceding *cross-heading* inserted (1.7.1997) by S.I. 1997/1182 (N.I. 11), art. 5; S.R. 1997/316, art. 2, Sch.

#### [<sup>F5</sup>128C Reports.

- (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.]

#### Textual Amendments

**F5** Ss. 128A-128C and the preceding *cross-heading* inserted (1.7.1997) by S.I. 1997/1182 (N.I. 11), art. 5; S.R. 1997/316, art. 2, Sch.

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### [<sup>F6</sup>Directions by Department]

#### Textual Amendments

**F6** S. 128D and the preceding *cross-heading* inserted (1.7.1997) by S.I. 1997/1182 (N.I. 11), **art. 8**; S.R. 1997/316, **art. 2**, **Sch.**

#### [<sup>F7</sup>128D Directions.

- (1) This section applies where—
  - (a) a copy of a report has been sent to the Housing Executive under section 128C(2) above;
  - [<sup>F8</sup>(b) a report has been laid before the Assembly under Article 21(5) of the Housing (Northern Ireland) Order 1981; 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.]

#### Textual Amendments

**F7** S. 128D and the preceding *cross-heading* inserted (1.7.1997) by S.I. 1997/1182 (N.I. 11), **art. 8**; S.R. 1997/316, **art. 2**, **Sch.**

**F8** S. 128D(1)(b) substituted (1.4.2003) by *The Audit and Accountability (Northern Ireland) Order 2003* (S.I. 2003/418), **art. 1(2)**, **Sch. 2 para. 4**

#### [128E <sup>F9</sup>Information about attainment of standards.

- (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

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(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.]

**Textual Amendments**

**F9** Ss.128E-128H inserted (1.7.1997) by S.I. 1997/1182 (N.I. 11), art. 9; S.R. 1997/316, art. 2, Sch.

**[<sup>F10</sup>128E Financing of other expenditure.**

(1) The Department may make to any relevant authority such payments as it thinks fit in respect of expenses incurred by that authority in connection with the carrying out of any relevant function—

- (a) by that authority,
- (b) by any person providing services to that authority, or
- (c) by any person authorised by that authority to carry out that function.

(2) In subsection (1)—

“relevant authority” means any authority (other than a government department) for the purposes of section 2A, 2C or 5A above;

“relevant function” means any function conferred by virtue of section 2A, 2C or 5A above.]

**Textual Amendments**

**F10** S. 128EE inserted (1.12.1999) by S.I. 1999/3147 (N.I. 11), art. 74, Sch. 9 para. 56 (with art. 75)

**[<sup>F11</sup>128F Enforcement notices.**

(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.

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- (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.]

#### Textual Amendments

**F11** Ss.128E-128H inserted (1.7.1997) by S.I. 1997/1182 (N.I. 11), art. 9; S.R. 1997/316, art. 2, Sch.

#### [<sup>F12</sup>128G Enforcement determinations.

- (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

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- (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.]

**Textual Amendments**

**F12** Ss.128E-128H inserted (1.7.1997) by S.I. 1997/1182 (N.I. 11), **art. 9**; S.R. 1997/316, **art. 2**, **Sch.**

**[<sup>F13</sup>128HEnforcement determinations: supplementary.**

- (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.]

**Textual Amendments**

**F13** Ss.128E-128H inserted (1.7.1997) by S.I. 1997/1182 (N.I. 11), **art. 9**; S.R. 1997/316, **art. 2**, **Sch.**



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