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STATUTORY INSTRUMENTS

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**2008 No. 463**

**SOCIAL SECURITY**

**The Social Security (Local Authority Investigations and Prosecutions) Regulations 2008**

<i>Made</i>	- - - -	<i>20th February 2008</i>
<i>Laid before Parliament</i>		<i>27th February 2008</i>
<i>Coming into force</i>	- -	<i>7th April 2008</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 110A(1B) and (1C)(a), 116A(2)(a), 189(4) and (5) and 191 of the Social Security Administration Act 1992(1).

In accordance with section 176(1) of that Act, he has consulted with the organisations appearing to him to be representative of the authorities concerned (2).

This instrument contains only regulations made by virtue of, or consequential upon, sections 46 and 47 of the Welfare Reform Act 2007 and is made before the end of the period of 6 months beginning with the coming into force of those sections(3).

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Social Security (Local Authority Investigations and Prosecutions) Regulations 2008.

(2) These Regulations shall come into force on 7th April 2008.

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

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(1) 1992 c. 5 (“the Act”). Section 110A was inserted by section 12 of the Social Security Administration (Fraud) Act 1997 (c. 47), and was substituted by paragraph 3 of, Schedule 6 to, the Child Support, Pensions and Social Security Act 2000 (c. 19) (“the 2000 Act”); section 110A was amended by sections 1 and 19 of, and by the Schedule to, the Social Security Fraud Act 2001 (c. 11) and by section 46 of the Welfare Reform Act 2007 (c. 5) (“the 2007 Act”). Section 116A was inserted by section 47 of the 2007 Act. Section 191 is an interpretation provision and is cited because of the meaning given to the word “prescribed”.

(2) Section 176(1) was amended by paragraph 23 of Schedule 9 to the Local Government Finance Act 1992 (c. 14), by section 69(6) of the 2000 Act, and by paragraph 3 of Schedule 13 to the Housing Act 1996 (c. 52).

(3) See section 173(5)(b) of the Act. The requirement to refer regulations to the Social Security Advisory Committee does not apply where regulations are contained in a statutory instrument which is made by virtue of, or consequential upon, a specified enactment before the end of the period of 6 months beginning with the coming into force of that enactment.

### **Authorisations by local authorities**

2.—(1) An authority must not proceed for a purpose mentioned in section 109A(2)(a) (authorisations for investigators) of the Act unless the authorisation concerns one or more of the benefits listed in paragraph (5)(4).

(2) An authority must not proceed for a purpose mentioned in section 109A(2)(c) of the Act unless the authorisation concerns relevant social security legislation relating to one or more of the benefits listed in paragraph (5)(5).

(3) An authority must not proceed for a purpose mentioned in section 109A(2)(d) of the Act unless the authorisation concerns a benefit offence relating to one or more of the benefits listed in paragraph (5)(6).

(4) An authorisation made for a purpose mentioned in section 109A(2)(a), (c) or (d) of the Act has effect in relation to a particular case only if in relation to that case an authorised officer has commenced an investigation for a purpose mentioned in section 110A(2) of that Act.

(5) The benefits are—

- (a) income support;
- (b) a jobseeker’s allowance;
- (c) incapacity benefit;
- (d) state pension credit;
- (e) an employment and support allowance.

### **Exercise of powers by local authorities to prosecute benefit fraud**

3. For the purposes of paragraph (2)(a) of section 116A of the Act (local authority powers to prosecute benefit fraud), the benefits prescribed are all relevant social security benefits except for—

- (a) income support;
- (b) a jobseeker’s allowance;
- (c) incapacity benefit;
- (d) state pension credit;
- (e) an employment and support allowance.

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

20th February 2008

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

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(4) Section 109A was substituted by section 67 of, and paragraphs 1 and 2 of Schedule 6 to, the 2000 Act.

(5) See section 121DA(1) of the Act for the meaning of “relevant social security legislation”.

(6) See section 121DA(5) of the Act for the meaning of “benefit offence”.

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## EXPLANATORY NOTE

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

These Regulations restrict the powers of local authorities to investigate and prosecute social security benefit offences other than housing benefit and council tax benefit offences.

The Regulations are made before the end of the period of six months beginning with the coming into force of the relevant provisions in the Welfare Reform Act 2007 (“the 2007 Act”). They are, therefore, exempt from the requirement in section 172(1) of the Social Security Administration Act 1992 (“the Act”) to refer proposals to make these Regulations to the Social Security Advisory Committee.

Section 110A of the Act (as amended by section 46 of the 2007 Act) permits local authorities to authorise individual officers to exercise certain investigatory powers including for the purpose of preventing or detecting offences relating to social security benefits.

Regulation 2 provides that an authorisation for investigations for social security benefit (other than housing benefit or council tax benefit) purposes is to be restricted to income support, jobseeker’s allowance, incapacity benefit, state pension credit and employment and support allowance matters. It also provides that such an authorisation applies only in those cases where an authorised officer has begun an investigation in relation to housing benefit or council tax benefit.

Section 116A of the Act (inserted by section 47 of the 2007 Act) provides for local authorities to be entitled to bring proceedings in respect of certain national social security benefit offences. Regulation 3 provides that the power given to local authorities under section 116A(2) does not apply to offences in relation to benefits other than income support, a jobseeker’s allowance, incapacity benefit, state pension credit and an employment and support allowance.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.