



# Social Security Fraud Act 2001

## 2001 CHAPTER 11

### *Obtaining and sharing information*

#### **1 Additional powers to obtain information**

- (1) The Administration Act shall be amended as follows.
- (2) In subsection (1)(a) of section 109B (power to require information), after “subsection (2)” there shall be inserted “ or (2A) ”; and after subsection (2) (persons from whom information may be obtained) there shall be inserted—
  - “(2A) The persons who fall within this subsection are—
    - (a) any bank;
    - (b) any person carrying on a business the whole or a significant part of which consists in the provision of credit (whether secured or unsecured) to members of the public;
    - (c) any insurance company (within the meaning of the Insurance Companies Act 1982 (c. 50));
    - (d) any credit reference agency (within the meaning given by section 145(8) of the Consumer Credit Act 1974 (c. 39));
    - (e) any body the principal activity of which is to facilitate the exchange of information for the purpose of preventing or detecting fraud;
    - (f) any person carrying on a business the whole or a significant part of which consists in the provision to members of the public of a service for transferring money from place to place;
    - (g) any water undertaker or sewerage undertaker, any water and sewerage authority constituted under section 62 of the Local Government etc. (Scotland) Act 1994 (c. 39) or any authority which is a collecting authority for the purposes of section 79 of that Act;
    - (h) any person who (within the meaning the Gas Act 1986 (c. 44)) supplies gas conveyed through pipes;
    - (i) any person who (within the meaning of the Electricity Act 1989 (c. 29)) supplies electricity conveyed by distribution systems;
    - (j) any person who provides a telecommunications service;

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*Status: Point in time view as at 12/01/2010. This version of this provision has been superseded.*

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- (k) any person conducting any educational establishment or institution;
  - (l) any body the principal activity of which is to provide services in connection with admissions to educational establishments or institutions;
  - (m) the Student Loans Company;
  - (n) any servant or agent of any person mentioned in any of the preceding paragraphs.
- (2B) Subject to the following provisions of this section, the powers conferred by this section on an authorised officer to require information from any person by virtue of his falling within subsection (2A) above shall be exercisable for the purpose only of obtaining information relating to a particular person identified (by name or description) by the officer.
- (2C) An authorised officer shall not, in exercise of those powers, require any information from any person by virtue of his falling within subsection (2A) above unless it appears to that officer that there are reasonable grounds for believing that the identified person to whom it relates is—
- (a) a person who has committed, is committing or intends to commit a benefit offence; or
  - (b) a person who (within the meaning of Part 7 of the Contributions and Benefits Act) is a member of the family of a person falling within paragraph (a) above.
- (2D) Nothing in subsection (2B) or (2C) above shall prevent an authorised officer who is an official of a Government department and whose authorisation states that his authorisation applies for the purposes of this subsection from exercising the powers conferred by this section for obtaining from—
- (a) a water undertaker or any water and sewerage authority constituted under section 62 of the Local Government etc. (Scotland) Act 1994,
  - (b) any person who (within the meaning the Gas Act 1986) supplies gas conveyed through pipes,
  - (c) any person who (within the meaning of the Electricity Act 1989) supplies electricity conveyed by distribution systems, or
  - (d) any servant or agent of a person mentioned in any of the preceding paragraphs,
- any information which relates exclusively to whether and in what quantities water, gas or electricity are being or have been supplied to residential premises specified or described in the notice by which the information is required.
- (2E) The powers conferred by this section shall not be exercisable for obtaining from any person providing a telecommunications service any information other than information which (within the meaning of section 21 of the Regulation of Investigatory Powers Act 2000 (c. 23)) is communications data but not traffic data.
- (2F) Nothing in subsection (2B) or (2C) above shall prevent an authorised officer from exercising the powers conferred by this section for requiring information, from a person who provides a telecommunications service, about the identity and postal address of a person identified by the authorised officer solely by reference to a telephone number or electronic address used in connection with the provision of such a service.”

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(3) For subsection (5) of that section (protection from self incrimination) there shall be substituted—

“(5)

No one shall be required under this section to provide—

- (a) any information that tends to incriminate either himself or, in the case of a person who is married, his spouse; or
  - (b) any information in respect of which a claim to legal professional privilege or, in Scotland, confidentiality as between client and professional legal adviser, would be successful in any proceedings;
- and for the purposes of this subsection it is immaterial whether the information is in documentary form or not.”

(4) After that subsection there shall be inserted—

“(6) Provision may be made by order—

- (a) adding any person to the list of persons falling within subsection (2A) above;
- (b) removing any person from the list of persons falling within that subsection;
- (c) modifying that subsection for the purpose of taking account of any change to the name of any person for the time being falling within that subsection.

(7) In this section—

“bank” means—

- (a) any institution for the time being authorised under a provision of the Banking Act 1987 (c. 22);
- (b) any person for the time being specified in any of paragraphs 2 to 10 of Schedule 2 to that Act (exempted persons);
- (c) any person for the time being entitled by virtue of the Banking Co-ordination (Second Council Directive) Regulations 1992 (S.I. 1992/3218) to accept deposits (within the meaning of that Act) in the United Kingdom;

“credit” includes a cash loan or any form of financial accommodation, including the cashing of a cheque;

“residential premises”, in relation to a supply of water, gas or electricity, means any premises which—

- (a) at the time of the supply were premises occupied wholly or partly for residential purposes, or
- (b) are premises to which that supply was provided as if they were so occupied; and

“telecommunications service” has the same meaning as in the Regulation of Investigatory Powers Act 2000 (c. 23).”

(5) In section 110A(8) (modifications for the application of sections 109B and 109C in the case of persons authorised by authorities administering housing benefit or council tax benefit), after paragraph (b) there shall be inserted “;and

- (c) with the omission of section 109B(2D).”

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- (6) In section 111(1)(a) (offence of obstruction), for “inspector” there shall be substituted “authorised officer”.
- (7) In section 121DA(5) (interpretation of Part 6), for the definition of “benefit offence” there shall be substituted—
- ““benefit offence” means—
- (a) any criminal offence in connection with a claim for a relevant social security benefit;
- (b) any criminal offence in connection with the receipt or payment of any amount by way of such a benefit;
- (c) any criminal offence committed for the purpose of facilitating the commission (whether or not by the same person) of a benefit offence;
- (d) any attempt or conspiracy to commit a benefit offence;”.
- (8) In section 121DA(7) (definitions for the purposes of section 121DA), after “section” there shall be inserted—
- ““relevant social security benefit” means a benefit under any provision of the relevant social security legislation; and”.
- (9) In section 190(1) (instruments subject to affirmative Parliamentary procedure), after paragraph (a) there shall be inserted—
- “(aza) any order containing provision adding any person to the list of persons falling within section 109B(2A) above;”.

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**Commencement Information**

- II** S. 1 wholly in force at 30.4.2002; s. 1 not in force at Royal Assent see s. 20; s. 1(4)(9) in force at 26.2.2002 by S.I. 2002/403, art. 2 and s. 1(1)-(3)(5)-(8) in force at 30.4.2002 by S.I. 2002/1222, art. 2

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