



Welfare Reform Act 2007

2007 CHAPTER 5

PART 2

HOUSING BENEFIT AND COUNCIL TAX BENEFIT

39 Directions by Secretary of State

- (1) Section 139D of the Administration Act (power to give directions) is amended in accordance with subsections (2) to (8) below.
- (2) In subsection (1) (reports that trigger the section), for paragraph (c) substitute—
 - “(c) a copy of a report under section 102(1)(b) or (c) of the Local Government (Scotland) Act 1973 which to any extent relates to the administration of benefit has been sent to a local authority and the Secretary of State under section 102(2) of that Act;”.
- (3) In subsection (1), after paragraph (c) insert—
 - “(ca) a copy of a report which has been sent to a local authority under section 13A(3) of the Local Government Act 1999 and to the Secretary of State under section 13A(4A) of that Act;”.
- (4) In subsection (2) for “invite” substitute “require”.
- (5) After subsection (2) insert—
 - “(2A) A requirement under subsection (2) above may specify—
 - (a) any information or description of information to be provided;
 - (b) the form and manner in which the information is to be provided.
 - (2B) The authority must respond to a requirement under subsection (2) above before the end of such period (not less than one month after the day on which the requirement is made) as the Secretary of State specifies in the requirement.
 - (2C) The Secretary of State may extend the period specified under subsection (2B) above.”

Status: This is the original version (as it was originally enacted).

(6) For subsection (3) substitute—

“(3) After considering—

- (a) the report,
- (b) any proposals made by the authority in response to it, and
- (c) any other information he thinks is relevant,

the Secretary of State may give directions to the authority under subsection (3A) or (3B) or both.

(3A) Directions under this subsection are directions as to—

- (a) standards which the authority is to attain in the prevention and detection of fraud relating to benefit or otherwise in the administration of benefit;
- (b) the time within which the standards are to be attained.

(3B) Directions under this subsection are directions to take such action as the Secretary of State thinks necessary or expedient for the purpose of improving the authority’s exercise of its functions—

- (a) in relation to the prevention and detection of fraud relating to benefit;
- (b) otherwise in relation to the administration of benefit.

(3C) A direction under subsection (3B) may specify the time within which anything is to be done.”

(7) In subsection (4), for “subsection (3)” substitute “subsection (3A)”.

(8) After subsection (4) insert—

“(4A) If the Secretary of State proposes to give a direction under this section he must give the authority to which the direction is to be addressed an opportunity to make representations about the proposed direction.

(4B) The Secretary of State may specify a period within which representations mentioned in subsection (4A) above must be made.

(4C) The Secretary of State may extend a period specified under subsection (4B) above.

(4D) Subsections (4A) to (4C) do not apply if the Secretary of State thinks that it is necessary for a direction to be given as a matter of urgency.

(4E) If the Secretary of State acts under subsection (4D) he must give in writing to the authority to which the direction is addressed his reasons for doing so.”

(9) After section 139D of that Act insert—

“139DA Directions: variation and revocation

(1) The Secretary of State may at any time in accordance with this section vary or revoke a direction under section 139D above.

(2) A direction may be varied or revoked only if the Secretary of State thinks it is necessary to do so—

- (a) in consequence of representations made by the authority to which the direction is addressed,

Status: This is the original version (as it was originally enacted).

- (b) to rectify an omission or error, or
 - (c) in consequence of a material change in circumstances.
- (3) The Secretary of State must not vary a direction unless he first—
 - (a) sends a copy of the proposed variation to the authority concerned,
 - (b) gives the authority his reasons for making the variation, and
 - (c) gives the authority an opportunity to make representations about the proposed variation.
- (4) The Secretary of State may specify a period of not less than one month within which representations mentioned in subsection (3)(c) above must be made.
- (5) The Secretary of State may extend a period specified under subsection (4) above.”