

**The Social Security Administration
(Fraud) Bill
[Bill 15 of 1996/97]**

Research Paper 96/107

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The aim of this Bill, which was presented on 15 November 1996, is to amend the law governing the administration of social security to improve the prevention and detection of benefit fraud and the efficiency with which benefits, in particular housing benefit and council tax benefit, are administered by local authorities.

This paper gives background to the introduction of the Bill, including discussion on the extent of benefit fraud and the success of existing initiatives. The paper also includes comment from interested organisations on the Bill's provisions, although at the time of writing relatively few of these bodies had prepared their responses. The Bill is due to be debated on Second Reading on 25 November 1996.

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I Summary

The Secretary of State for Social Security, Peter Lilley, announced at the Conservative Party Conference on 9 October 1996 that measures would be introduced to help the Department of Social Security (DSS) in its fight to combat benefit fraud. The *Social Security Administration (Fraud) Bill* was presented on 15 November 1996 and is due to be debated on Second Reading on 25 November 1996.

Benefit fraud is currently estimated to cost the taxpayer £3 billion a year. Various initiatives have been introduced to detect and prevent fraud; the in-year detection target for 1996/97 is £1.8 billion.¹ The Government has stated that the first aim of this Bill is 'to ensure that fraud investigators have the tools they need to catch those who cheat the benefit system and to ensure that fraudsters pay'.² The Bill will:

- remove barriers to comparing information held on different databases for the purpose of preventing, detecting and investigating fraud;
- introduce a range of penalties for claimants who give false information to get benefit;
- ensure that those who conceal information, as well as those who make false statements, can be effectively prosecuted;
- make it easier to prosecute people who make fraudulent attempts to get a National Insurance number.

The second stated aim of the Bill is to improve local authorities' performance in the administration of Housing Benefit and Council Tax Benefit. In this area the Bill will:

- enable the establishment of an inspectorate to monitor anti-fraud work in housing and council tax benefits which are administered by local authorities;
- introduce powers to make directions to local authorities to improve their performance in tackling housing benefit fraud.

Parts II and III of this paper give general background on benefit fraud (housing benefit fraud is dealt with separately); part III sets out the Bill's provisions in detail and includes comment from interested organisations.

¹ DSS *Fraud Bill - Background Briefing for Queens Speech*, 23 October 1996

² *ibid*

II Social Security fraud in general

A. The extent of fraud and anti-fraud initiatives

The extent of social security fraud is estimated to be around £4 billion in the current year, of which around £1 billion is detected.³

Research carried out by the Benefits Agency suggests fraudulent claims of income support/unemployment benefit, housing and council tax benefits account for the bulk of fraud activity. Evidence from surveys suggests around £1.5 billion is being overpaid in income support and unemployment benefit (often associated with failure to declare income, capital or changes in status such as living together as husband and wife).⁴ A further £1 billion is reckoned to be being overpaid in housing benefit.⁵

In July 1995 the Secretary of State for Social Security announced a five-year strategy to give more emphasis to the prevention and deterrence of fraud and error. This aims to increase the security of the benefit process by:

- increasing control at the point of entry to the benefit system;
- improving control throughout the life of benefit claims;
- improving security and control at the point of benefit payment; and
- minimising weaknesses in the design of benefits.

In 1995/6 detected fraud savings amounted to £1.4 billion. £716 million in benefit fraud was stopped by over 400,000 investigations and £507 million was saved through initiatives such as data matching, bar-coding and scanning of order books, extra visits and checks on new and existing claims. Benefit fraud stopped by local authorities accounts for the remaining £222 million.⁶

³ Financial memorandum to the Bill

⁴ BA Security *Benefit Review (Income Support & Unemployment Benefit)* June 1995

⁵ DSS press notice Jan 1996, "Billion Pounds Housing Benefit Fraud Revealed"

⁶ DSS press notice, *Fraud savings hit new high*, 5 August 1996

The categories and details of detected fraud savings are:

	1994/5 £m	1995/6 £m
Individual benefit fraud	599	638
Multiple identity fraud	6	11
Method of payment fraud*	68	55
Organised method of payment fraud*, security control programme savings (eg new claims visits, data matching, bar-coding of order books)	24	507
Benefit savings by local authorities	171	222
Total	889	1,444
Criminal prosecutions	9,546	10,677
Arrest in Organised Fraud	1,336	1,207

* Savings from stopped method of payment fraud are now recorded under the Security and Control Programme savings.

Projects implemented in the first year of the strategy to reduce weakness and risks in the benefit system include:

- **New claim visits.** Since July 1995 benefit claimants have been visited prior to award to verify their circumstances.
- **Targeted reviews.** Verification of customer circumstances during the life of benefit claims.
- **Generalised matching.** This compares internal Benefits Agency (BA) data to identify inconsistencies in information held on benefit claims.
- **Benefit reviews.** Undertaking sample surveys to determine the scale of fraud and error and establish the pattern of fraudulent activity.

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- **Electronic stop notice.** Post Offices fitted with a scanner to read the bar code on benefit order books can check the status of books prior to encashment. This prevents encashment from reported lost or stolen books.

Other security measures and anti-fraud activities implemented include:

- **The fraud referral hotline.** This was piloted in a number of areas and enables the public to pass on information about alleged benefit fraud; it was launched nationally in August 1996.
- **Post Office rewards scheme.** This rewards Post Office staff who prevent encashment of fraudulent instruments of payment.

Measures to be implemented during the current financial year include:

- Further data matching (the current bill provides for more inter-departmental matching).
- More Benefit Reviews (to ascertain the nature and scale of fraud) so far research has been published to estimate the scale of fraud in income support and unemployment benefit, housing benefit and invalid care allowance.
- Increase in visits and reviews of claims.
- Introduction of benefit payment card (full implementation in 2-3 years).
- Action to tackle employers who collude with employees who work while continuing to claim unemployment benefits.⁷

⁷ *Social Security Departmental Report Cm 3213*

B. Types of fraud

Benefit fraud occurs in four main areas:

- **Misrepresentation of household circumstances** - either through incorrectly notifying the BA at the point of claim or failing to notify during the period of the claim.
- **Misrepresentation of financial circumstances** - either through incorrectly notifying the BA at the point of claim or failing to notify during the period of the claim.
- **Identity** - where claimants are not who they say they are and are not in fact entitled.
- **Security of payments** - When instruments of payment (order books and girocheques) are stolen, manipulated or counterfeited to obtain payments to which there is no entitlement.

According to the Benefits Agency, fraud investigation work suggests the great majority of fraud occurs through misrepresentation of household or financial circumstances.⁸

⁸ Benefits Agency Security Strategy, *Five Year Programme Against Fraud and Abuse*

III Housing Benefit/Council Tax Benefit

A. The extent of fraud

Expenditure on Housing Benefit (HB) has doubled in real terms since 1988; projected expenditure for 1996/97 is £11 billion. The table below illustrates the growth in the cost of HB:⁹

Housing Benefit Expenditure - Great Britain

Outturn	Cash £m	1996/97 prices [#] £m	Percentage change on previous year
1989/90	4,299	5,645	-
1990/91	5,147	6,259	10.9
1991/92	6,482	7,407	18.4
1992/93	7,901	8,664	17.0
1993/94	9,218	9,826	13.4
1994/95	10,181	10,662	8.5
1995/96	10,848	11,092	4.0
1996/97*	11,178	11,178	0.8

* Estimated

Adjusted using the GDP deflator

The number of HB recipients living in local authority accommodation has remained fairly constant while the numbers of private tenants, including housing association tenants, receiving HB has risen dramatically;¹⁰ expenditure on HB in the private rented sector has increased by 350 per cent since 1988.

In January 1996 the Department of Social Security (DSS) published the findings of research into the extent of error and fraud in HB payments. The report¹¹ estimated that the total annual

⁹ Social Security Departmental Report Cm 3213 March 1996, Social Security Departmental Report Cm 2813 March 1995, DSS *The Growth of Social Security* 1993

¹⁰ Social Security Select Committee, *Housing Benefit Fraud*, 1 May 1996 HC 90-I 1995-96 para 20

¹¹ *Housing Benefit Review - Main Stage Report*

value of HB lost as a result of error or fraud could exceed £1 billion; of this total it was estimated that fraud would account for over £900 million. The Social Security Select Committee's report, *Housing Benefit Fraud*, which was published in May 1996,¹² is critical of this estimate because of the methodology employed by the DSS:¹³

'Much more serious than the failure to detect these individual frauds is the Report's almost complete absence of evidence on organised or collusive frauds, particularly landlord fraud. This absence of evidence can be partly explained by the passive nature of the exercise, based on checking existing information rather than on investigation. The difference between checking information and investigating fraud is fundamental but the awareness of this difference is not widely understood, let alone acted upon. The Committee has been told that if investigative techniques are used a high level of fraud is detected in the private rented sector.'

The Committee concluded that the true total of HB fraud could possibly be as high as £2 billion¹⁴ but the Government has rejected this suggestion:¹⁵

'The Housing Benefit Review was a carefully planned, statistically sound study which involved unannounced visits to claimants in their homes by trained fraud investigators. Its design was endorsed by the National Audit Office. The Review estimated the scale of Housing Benefit fraud to be of the order of £1 billion. No other study has ever been carried out in this country with a similarly rigorous methodology. The Government is sceptical, therefore, about the view of the Local Authority Investigation Officers Group expressed to the Committee that Housing Benefit fraud could amount to £2 billion, and notes that no supporting evidence was provided for it.'

On 14 November 1996 the Audit Commission published an update to its report *Protecting the Public Purse: Ensuring Probity in Local Government*¹⁶ in which it states that '[housing] benefit fraud continues to be the major probity issue facing local government.'¹⁷ It found that there were 162,000 proven fraudulent cases in 1995/96 involving losses of £55 million; this represented over 5 times as many detections as there were five years before.

Following the Government's announcement of its intention to bring forward a Bill to combat social security fraud during the Queen's Speech on 23 October 1996, the London Housing Unit (LHU) issued a Press Release in which it laid the blame for the increase in HB fraud at the Government's feet:¹⁸

¹² HC 90-I 1995-96

¹³ *ibid* para 49

¹⁴ *ibid* para 6

¹⁵ *Housing Benefit Fraud: Reply by the Government to the Third Report from the Social Security Select Committee Session 1995-96* Cm 3299 June 1996 para 6

¹⁶ The first Audit Commission report of this title was published in 1993.

¹⁷ para 12

¹⁸ LHU press notice, *Government policy leads to benefit fraud*, 25 October 1996

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'The high level of rents has made fraud a much more lucrative proposition for unscrupulous private landlords. They were able to make claims for housing benefit for tenants who did not exist and for dwellings that were unoccupied.

Lettings in the private sector were far more vulnerable to fraud than those in the public sector ... In the case of council housing, the local authority is able to check immediately from its other records who is occupying a property. According to LHU research, the cost of housing benefit to the Exchequer is now running at four times the level it was in 1988, the last year before private sector rents were deregulated by the Government.

LHU analysis shows that barely one pound in every four of this increase [*in housing benefit expenditure*] is due to a rise in the number of privately rented properties for which housing benefit is paid. The great bulk of the increase comes purely from an increase in rents.'

B. Types of fraud

Studies into HB fraud have noted that it can be committed in a variety of different ways; the list below, taken from the Social Security Select Committee's report,¹⁹ illustrates the many ways in which HB fraud can be perpetrated:

Property based fraud:

Residence:

- claimant not resident at given address
- failure to report change of address
- claimant only resident long enough to set up claim (this may involve redirection of mail)
- sub-letting and moving on

Rent/tenancy:

- overstating rent payable (either individually by the tenant or collusive inflation of rent so landlord and tenant split the proceeds)
- fictitious sub-tenancy
- landlord is fictitious
- home owner is purporting to be tenant (at own home or another address)

¹⁹ HC 90-I 1995-96 para 52

- landlord is a close relative

Multiple:

- claims for benefit by claimant using multiple identities
- claims for benefit by claimant using multiple addresses

Landlord:

- fictitious tenancy (claim for benefit where no tenancy exists)
- confirmation by landlord that tenant still in residence even though he has moved out
- claims for empty properties
- abuse of right to buy scheme with the property being bought then setting up tenancies with original tenants as private tenants

Agents:

- agents with no legal standing (ie not authorised by the owner) increasing rent levels or number of tenants

Large scale organised fraud:

- of various types including where a business or family own a number of properties and move 'tenants' in and out with such regularity that tracing becomes impossible. Properties may be registered under false names to confuse investigators. 'Tenants' may be employees or family members collusively claiming in many different places.

Income based fraud:

Working:

- working whilst stating unemployed or sick/disabled
- having two jobs but declaring one
- working under a false name and claiming under another

Declaration:

- understating earnings

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- stating basic earnings but not overtime, bonus or commission
- working shortened hours, or going sick for purpose of declaration, then return to normal
- failure to declare partner's earnings

Collusion:

- by employers understating hours, rates of pay or allowing job to be completely undeclared
- by wages staff giving false wage slips or declaration

Capital and possessions:

- non-declaration or understating of investments, capital or pensions
- false bank accounts
- self-employed showing false or manipulated accounts
- failing to disclose ownership or rental income from other property

Circumstance based fraud:

Marital:

- failure to declare relationship
- fictitious desertion
- duplicate claims ie each partner claiming full rent
- partners jointly purchasing property, then one claiming to be the landlord and the other the tenant

Declarations:

- failure to declare non-dependents, lodgers, sub-tenants, family members
- fictitious children
- false declarations of age, disability to attract premium

Instrument of payment fraud:

False encashment:

- cheques falsely stated as lost or not received - duplicate and originals cashed
- cheques altered
- interception of mail
- forgery of cheques
- false identity use to cash cheques

Internal frauds:

- false claims created by staff
- multiple false claims
- theft of blank cheques
- manipulation of claims for third parties
- manipulation of computer to create advantage
- false declarations recorded

C. Anti-fraud initiatives

HB has been administered by local authorities on behalf of the DSS since 1983. As with all benefits, an important objective of the delivery system is to ensure that all those entitled to a benefit receive the correct amount; local authorities have a statutory responsibility to ensure that their systems do their best to meet this objective. The Social Security Select Committee's 1996 report commented that: 'During the 1980s there appears to have been little coherent strategy to prevent, deter or detect Housing Benefit fraud'.²⁰ In practice, until 1993 the subsidy system in operation penalised authorities for detecting fraud as these payments were treated as overpayments which attracted a lower rate of subsidy. Recent years have seen concerted efforts by central and local government to combat fraud.

²⁰ *ibid* para 30

1. Financial incentives

By way of an incentive to authorities to be vigilant in regard to potentially fraudulent claims the DSS introduced a scheme in April 1993 whereby authorities could share in any savings achieved above and beyond their share of a national baseline (originally set at £100 million and increased to £150 million from April 1996).²¹ These incentives were strengthened in April 1996²² so that authorities can now receive 10 per cent additional subsidy on savings above three quarters of their share of the national threshold and 25 per cent (previously 20 per cent) on savings achieved in excess of their share of the national threshold. The threshold is distributed according to each local authority's share of national HB/Council Tax Benefit (CTB) expenditure.

In April 1994 subsidy reductions were introduced for authorities achieving less than 50 per cent of the £100 million threshold in order to encourage those who were perceived as doing little to combat fraud. In 1993/94 local authorities saved around £90 million; this increased to £171 million in 1994/95 and £222 million in 1995/96. In the last financial year around 90 per cent of authorities (421) received bonus payments as a direct result of their efforts to curb fraud;²³ a total of £28 million in extra subsidy was earned in 1995/96 as a result of the incentive scheme.²⁴

The introduction of the incentive scheme was generally welcomed by local authorities. In January 1995 the DSS published an analysis of the operation of the scheme²⁵ the main findings of which are summarised in the Social Security Committee's Report as follows:²⁶

- the proportion of authorities with no fraud staff in place had decreased from 28 per cent to four per cent since the implementation of the scheme in April 1993;
- 80 per cent of local authorities expected to better their performance in the second year of the scheme compared to the first year;
- the majority of authorities (77 per cent) agreed that in dividing up the national baseline, the level of benefit expenditure should be used while a similar proportion (79 per cent) thought that such data should be weighted to reflect factors that varied between authorities;
- there was evidence of different methods being used to calculate benefit savings;

²¹ This initiative was referred to as 'Action Against Fraud'.

²² Following the publication of the *Housing Benefit Review - Main Stage Report*.

²³ DSS press notice, *DSS cracks down on organised fraud by London landlords*, 15 May 1996

²⁴ HC Deb 12 November 1996 c.195W

²⁵ *Local Authority Anti-Fraud Incentives*

²⁶ HC 90-1 1995-96 para 32

- there was widespread agreement that the formula took no account of preventive or deterrent work.

2. National register

Following publication of the *Housing Benefit Review* in January 1996 the Secretary of State for Social Security, Peter Lilley, announced the creation of a national register of Housing Benefit and Council Tax Benefit (to be operational from July 1996) with a view to matching data across local authorities against departmental fraud detection systems:²⁷

'There are currently 475 local authorities in England, Wales and Scotland. They administer Housing Benefit and Council Tax Benefit individually on different, unconnected IT systems with no interface with Benefits Agency IT systems. The Central Register will provide comparison of information, detection of inconsistencies and identification of fraud. It will be able to match data within and across local authorities and against DSS systems to detect fraud and inconsistencies.'

3. Challenge funding

This initiative, also announced in response to the *Housing Benefit Review - Main Stage Report*, has involved making up to £10 million available from April 1996 'to enable local authorities to develop innovative ideas to tackle fraud'.²⁸ Authorities may bid for funds with which to implement new schemes; successful schemes are to be publicised to encourage adoption by other authorities. The finance for this scheme has been re-directed from local authorities' administration grants.

4. Audit Commission

In January 1996 the Secretary of State announced that the Government intended to work closely with the Audit Commission to tighten up local authority methods of preventing fraudulent claims getting into the system.²⁹

The Audit Commission's auditors have been working with local government in London to develop computer techniques for detecting fraud. Its 1996 report³⁰ notes that the London

²⁷ DSS press notice, *Billion pound benefit fraud revealed*, 19 January 1996

²⁸ *ibid*

²⁹ *ibid*

³⁰ *Protecting the Public Purse: Ensuring Probity in Local Government*, 14 November 1996 para 13

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Team Against Fraud detected fraud worth £3 million using these techniques in 1995/96; by 1997 it aims to extend these techniques to all councils in England and Wales as part of the National Fraud Initiative (NFI).

The Commission is carrying out a joint study into HB with the National Audit Office (NAO) which is designed to review the arrangements to deter, identify and investigate fraud. The NAO is to report to Parliament on the effectiveness of the DSS's measures to encourage local authorities to combat fraud, including subsidy incentives and anti-fraud training. The Commission intends to publish a report and handbook describing best practice, aimed at those in local government who administer HB.³¹

The Audit Commission is also participating in a joint study with the Benefits Agency on co-operation between the Agency and local authorities in preventing and detecting fraud. The Commission is involved in the formation of the London Organised Fraud Investigation (see below).

5. Fraud teams

As concern about HB fraud grew during the 1990s a number of local authorities developed some local initiatives. In 1993 the Finance Directors of London Boroughs formed the London Committee for Action Against Fraud which funds the London Team Against Fraud. In 1994 this Team set up a Housing Benefit Central Register to match HB data across 33 London Boroughs. In 1991 local authority fraud investigators formed a national group, the Local Authority Investigation Officers Group. A separate group, the London Boroughs Fraud Investigators Group was formed in London. The aim of these groups is to raise the profile of local authority fraud issues and provide training and support to their members.

In May 1996 the Social Security Fraud Minister, Oliver Heald, announced the creation of the London Fraud Investigation Team (LOFIT) comprising six specialist teams of up to 20 local authority investigation officers. LOFIT is to focus on:³²

- organised HB fraud conducted across more than one London borough;
- liaison with the Benefits Agency, Police, Crown Prosecution Service, London Team Against Fraud and other relevant organisations;
- landlord surveillance;

³¹ *ibid*

³² DSS press notice, *DSS cracks down on organised fraud by London landlords*, 15 May 1996

- promotion of good practice in preventing and detecting fraud.

6. Response to the Social Security Select Committee's Report

In response to the Committee's May 1996 report Peter Lilley announced three new anti-fraud measures including:³³

- The setting up of a cross-governmental committee to formalise the co-ordination of measures to tackle fraud;
- The relaxation of restrictions on the sharing of information between the Inland Revenue and DSS officials for the purpose of identifying potential fraud;
- Discussions to take place with the Royal Mail over access to the database of redirected mail to assist in tackling multiple identity and other frauds involving false addresses.

III The Bill and detailed comment

A. Supply and use of information (Clauses 1-4)

The general aim of these clauses (1-4) is to improve the detection of certain types of benefit fraud by allowing data provided to certain government departments to be compared with data held by the DSS in order to identify inconsistencies. Local authorities will be allowed to exchange and pass on data to assist in the prevention and detection of fraud and to promote the efficient administration of HB and council tax benefit (CTB).

Provisions for the exchange of information between government departments for social security purposes are currently covered by section 122 of the *Social Security Administration Act 1992* and section 116 of the *Social Security Administration (Northern Ireland) Act 1992*. These relate solely to information held by the Inland Revenue. They state that any obligation of secrecy on the part of the Inland Revenue cannot prevent the disclosure of information held in connection with the assessment or collection of income tax to officials of the DSS. The information must be in connection with the collection and assessment of national insurance contributions. Once information is disclosed to the DSS, the department is as bound as the Inland Revenue not to disclose that information further, unless it is to be made available for

³³ DSS press notice, *New Ministerial anti-fraud group announced in response to Social Security Select Committee Report*, 5 June 1996

the purposes of civil or criminal proceedings in relation to contribution law, the *Jobseekers Act 1995* or the determination of a question by the Secretary of State.

There is currently no provision to enable information held by Customs and Excise to be disclosed to the DSS. However, as the Inland Revenue and the Customs and Excise are authorised to disclose to each other information which is relevant to the other's duties it has been suggested that some information which is passed to the DSS by the Inland Revenue could have originated from Customs and Excise³⁴.

For self employed people paying schedule D tax, the information that can be disclosed to the DSS is restricted to that which is sufficient to identify the person undertaking the work, details of when that person commences or ceases self employed work and to certain circumstances when the responsibility for the assessment of Class 4 contributions has passed from the Inland Revenue to the DSS.

The department has been developing its investigative methods for detecting fraud with an increased use of information technology. The Generalised Matching Service (GMS) has been in operation since April 1995. It takes benefit data from internal Benefit Agency computers and matches that information against specific rules to identify inconsistencies. In this way the system generates referrals for fraud officers to investigate and according to department figures has led to £29m in savings in 1995/6³⁵. There have also been attempts to extend the working cooperation between government departments with regard to the disclosure of information³⁶.

Clause 1 of the Bill will replace section 122 of the 1992 Act and proposes to extend the provision for the disclosure of information. The Bill stipulates that information held by the Inland Revenue *and* Customs and Excise may be passed to the DSS:

'for use in the prevention, detection, investigation or prosecution of offences relating to social security;
or
for use in checking the accuracy of information.'

This is more directive than the 1992 Act which merely states that the passing of certain information cannot be prevented. Under the Bill's proposals as long as it can be used for the above, there are no restrictions on the information which can be disclosed.

³⁴ Tolley's, *National Insurance Contributions*, 1996-7 p.348

³⁵ DSS press notice, *Fraud savings hit new high*, 5 August 1996

³⁶ Inland Revenue press notice 94/137, 1 September 1994, DSS press notice 95/118, 19 September 1995

The new Section 122(3)(c) will allow for information passed on from the Inland Revenue and Customs and Excise to be disclosed further to local authorities for the purpose of detecting and preventing council tax benefit or housing benefit fraud. The calculation of CTB and HB is partly dependent on the level of social security benefits to which a claimant is entitled.

The new Section 122A will allow information held by the Inland Revenue to be disclosed to the Contributions Agency and re-enacts existing provisions. The Contributions Agency is the arm of the DSS which maintains and checks people's National Insurance contribution records. However, unlike information passed from the Inland Revenue to the DSS, it was not thought necessary to allow for this to be disclosed further to local authorities and this is not provided for.

Clause 2 extends the provisions to include information held by people working for other Government departments. Subsection (1)(a) covers information which relates to "passports, immigration and emigration, nationality or prisoners" and would allow for this to be given to the DSS for the same purposes as outlined for Inland Revenue information above. A claimant's immigration status and nationality can affect their entitlement to benefits as this can be dependent on residence or immigration-status. The Bill would allow DSS officials to check the information received from a claimant with that held about them by the immigration authorities.

Concern about prisoners stems largely from people failing to inform the authorities when they have gone into custody and their claim for benefits has fraudulently continued. This issue was raised in a parliamentary question in 1994 and Alistair Burt, then Parliamentary Under Secretary of State for Social Security, outlined the measures that were being newly undertaken at that time to combat this type of fraud:³⁷

In response to the continuing problem of benefit fraud amongst prisoners new controls were introduced on 4 March. The Prison Service now provides the Benefits Agency and the Employment Service with a weekly list of all newly convicted prisoners in England and Wales. This will ensure that all benefit recipients have their case reviewed on entry to prison.

The provisions in the Bill would extend these controls to cover all prisoners including those on remand.

Subsection (b) covers information which relates to "any other matter prescribed". This effectively means regulations could be laid which would allow for any Government

³⁷ HC Deb 16 March 1994 c.709W

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department to be covered by these provisions. The definition of Government departments for the purposes of this Bill is:

'a person providing services to a Minister of the Crown or a government department (including a Northern Ireland department)'

Thus, anyone who comes under this definition could in the future come under the terms of the Bill and be required to pass information to the DSS which could assist in preventing or detecting benefit fraud. This information could then be disclosed further to local authorities to help with the detection of CTB or HB. Similar provisions are included in the Bill to cover the use of other government information in Northern Ireland to be made available to the DSS.

The Government believes the new rules will remove unnecessary barriers to the effective detection and prevention of social security fraud.

Whilst recognising the need to ensure benefit fraud is tackled effectively some respondents to the Bill feel that the increased powers it would provide need to be balanced by safeguards to protect people's privacy. Justice, a campaign group for human rights and legal reform, believe the Data Protection Act would provide inadequate protection and advocates a statutory code of practice relating to data matching between government departments.

Clause 3 adds a new section (122C) to the *Social Security Administration Act 1992* to allow the Secretary of State or the Northern Ireland (NI) Department to supply information relating to HB or CTB to local authorities for use in the administration of those benefits and requires authorities to have regard to this information when administering them.

As clauses 1 and 2 of the Bill provide for the supply of information held by tax authorities and other government departments to the Secretary of State or the NI Department, the effect of clause 3 is to enable this information to be supplied to local authorities for use in the prevention, detection, investigation or prosecution of offences relating to HB or CTB, or to check the accuracy of information relating to HB/CTB claims.

The clause allows the Secretary of State or NI Department to impose conditions on the use of such information and to charge a fee for supplying it. Further disclosure of the information is to be prevented except in certain limited circumstances.

Additionally, **clause 3** inserts a new section (122D) into the 1992 Act to enable the Secretary of State or NI Department to require local authorities, and other bodies authorised to exercise

the HB/CTB functions of an authority, to supply information relating to benefit administration or policy to the Secretary of State or NI Department. The manner and form of information supplied under this section may be prescribed.

Clause 3 also inserts a new section (122E) into the 1992 Act to enable the Secretary of State and NI Department to authorise local authorities to supply information relating to benefit administration to other authorities for use in the prevention, detection, investigation or prosecution of offences relating to HB/CTB or for maintaining and improving the accuracy of information relating to those benefits.

Clause 4 extends the provisions in Schedule 4 to the 1992 Act that set out who may commit the offence of unauthorised disclosure of social security information to cover local authority members, officers and employees, local authority contractors and their employees, local authority inspectors and local government ombudsmen and auditors.

B. Administration of HB and CTB (Clauses 5-10)

Clause 5 inserts a new section (139A) in the 1992 Act to enable the Secretary of State to authorise persons to consider and report to him on the administration of HB and CTB by local authorities with particular reference to the prevention and detection of fraud. These 'authorised persons' will have rights of access, at any reasonable time, to any documents and information relating to the administration of benefits. They will also be entitled to an explanation from any person accountable for documents, or involved in benefits administration, and to require it to be given in person. Any person who fails, without reasonable excuse, to comply with such a requirement imposed by an authorised person will be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale (£1,000).

A report to the Secretary of State made under this section by an authorised person may include recommendations about improvements that could be made by an authority in terms of benefit administration, with particular regard to the prevention and detection of fraud. Local authorities will receive copies of these reports as and when they are sent to the Secretary of State.

The effect of clause 5 will be to give power to a national inspectorate to monitor anti-fraud work by local authorities. An inspectorate could be set up under existing social security legislation but it would lack the powers that the Bill is seeking to introduce.

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The local authority associations have questioned the need for such an inspectorate on the grounds that only 27 out of 400 authorities were below their fraud targets in 1995/96; Paul Lautman of the Association of District Councils (ADC) has been reported as stating:³⁸

'It's using a sledgehammer to crack a nut, the DSS has already got sufficient means to penalise poor performance. We would have thought there were better ways to invest than in a costly inspectorate.'

The associations are concerned about what they perceive as the 'big brother' approach of developing an inspectorate with extensive powers; Paul Lautman has commented that local authorities are responsible bodies and that the rationale for a fraud inspectorate is none too clear.³⁹ Speaking on behalf of the joint associations Paul Jenks, Chair of the ADC Housing Committee, stated:⁴⁰

'Local authorities share the Government's concern about benefit fraud and have made great efforts to tackle it. But we are concerned that the powers of this new fraud inspectorate are excessive and unnecessary - the money would be better spent recruiting local authority fraud investigators to work at the sharp end to combat fraud and to ensure that benefit reaches those who are entitled to receive it.'

Clause 6 inserts a new section into the *Local Government and Finance Act 1982* to enable the Audit Commission to assist the Secretary of State, on request, in any study designed to improve the administration of HB/CTB by local authorities. Under this provision authorities and their officers will be obliged to provide information needed for the conduct of such a study. The clause also provides for the exchange of information between the Secretary of State and the Audit Commission.

Clause 7 makes similar provision in relation to the Commission for Local Authority Accounts in Scotland.

Clause 8 inserts a new section into the *Social Security Administration Act 1992* (139D) to enable the Secretary of State to invite a local authority to consider a report made about its administration of HB or CTB and to remedy any failing identified in it. The clause allows the Secretary of State to make directions about the standards which an authority is expected to attain and the time within which they are to be attained. The Secretary of State will have the power to make recommendations about the courses of action that the authority might take to achieve these standards.

³⁸ "Government hit squads set to raid LA benefit departments", *Housing Today*, 31 October 1996

³⁹ *ibid*

⁴⁰ ADC press notice, *Local authorities need more resources to tackle fraudsters, say associations*, 15 November 1996

Clause 9 amends section 140B of the 1992 Act, which provides for the calculation of subsidy in respect of HB and CTB, to strengthen the Secretary of State's powers to increase or decrease the subsidy paid to local authorities on the basis of their success or failure in preventing and detecting fraud. The manner in which these deductions/increases are to be calculated will be specified by Order. The Secretary of State will also be able to deduct subsidy if an authority fails to reach the standards that he has directed them to attain under section 139D (see **clause 8**).

The local authority associations argued against the introduction of an increased detection target for HB/CTB fraud and associated subsidy cuts from April 1 1996.⁴¹ There was concern that many councils would find it difficult to achieve the fraud savings targets set; Paul Lautman of the ADC has made the following response:⁴²

'The DSS needs to recognise the need to invest to save. That means up front investment in investigating officers. Councils have already expressed concern that the harsher incentive regime will throw their budgets into turmoil.'

The local authority associations are, therefore, opposed to this provision in the Bill which implies further adjustments in subsidy entitlement. They have called for councils to be given 'a period of stability', and have said that the government is 'tinkering' without waiting to see how far this year's targets are working.⁴³

Clause 10 inserts a new section 110 into the 1992 Act to allow local authorities administering HB/CTB to appoint inspectors from among their employees or, with the consent of the Secretary of State, the employees of another authority or, from among employees of a contractor acting on its behalf. An appointed inspector will be able to enter business premises to make enquiries about any person believed to be a benefit claimant or recipient. Private dwelling houses will not be liable to inspection unless there are reasonable grounds for believing that a trade or business is being carried on from there which is not also being carried on from premises other than the dwelling house in question. The clause places a duty on the following classes of person to supply information or produce documents if required by an appointed inspector:

- (a) persons who occupy premises liable to inspection or persons found by an inspector in any such premises;
- (b) persons believed by an inspector to be benefit claimants or benefit recipients;

⁴¹ See page 16

⁴² "Incentives to tackle fraud come under fire", *Inside Housing*, 26 January 1996

⁴³ "Councils fear moving fraud targets will hit cash incentives", *Inside Housing*, 1 November 1996

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- (c) persons believed by an inspector to hold or have access to information or documents relating to a person in (b) above; or
- (d) persons who are employees or agents of a person within any of the paragraphs (a) to (c) above.

In regard to clauses 8, 9 and 10 CHAR, the housing campaign for single people, has made the following response:⁴⁴

- If increasing amounts of time and resources are directed towards tackling fraud then the efficiency of other aspects of the HB system, eg calculation and payment of HB, are likely to suffer. We fear that late payments could result, causing problems for claimants and landlords.
- If financial penalties and incentives are to be used to encourage local authorities to tackle fraud then we feel similar arrangements should be made to make them tackle the problem of late payments of benefit.
- We are concerned that the subsidy penalties could also cause over-zealous and cash-strapped local authorities to victimise innocent people.
- If local authorities are constantly on the look out for fraud the culture of suspicion that could arise in benefit offices could lead to large delays in the processing of HB claims and claimants being subjected to excessive scrutiny prior to their being paid their HB.

C. Offences, penalties and overpayments (Clauses 11-14)

Currently, a person attempting to obtain benefit⁴⁵ is guilty of an offence if he:

- makes a statement or representation which he knows to be false;
- provides documents or information which he knows to be false;
- knowingly causes or allows another person to provide documents or information which he knows to be false.⁴⁶

⁴⁴ CHAR's response to the government's Fraud Bill, 15 November 1996

⁴⁵ Benefits covered by S.110 of the SSAA 1992

⁴⁶ Section 112 Social Security Administration Act 1992

Such an offence carries a maximum fine of £5,000 (level 5 on the standard scale), or imprisonment for up to 3 months, or both. In addition, a person may have to repay any benefit overpaid as a result. This offence is liable for summary conviction only - this means it can be tried only in a magistrates' court (in Scotland, a Sheriffs' court).

Clause 11 creates a new, more serious, offence, where a person dishonestly makes a false statement or provides false information or causes another person to do this to gain benefit or other advantage under social security legislation. It also makes an offence of failure to notify, or causing another person to fail to notify, certain changes of circumstances. These changes will be prescribed in regulations.

Such an offence will be triable either summarily (in a magistrates' court) or on indictment (in a higher court). A summary conviction can have a fine of up to the statutory maximum, (currently £5,000) or imprisonment up to six months, or both. On conviction on indictment, the maximum term of imprisonment is seven years, or a fine, or both.

This offence is intended to cover more serious fraudulent offences than the existing section 112. In England and Wales it will require a person to have acted "dishonestly", not just "knowingly". In Scotland it will be sufficient for a person to have knowingly made representations to obtain benefit for an offence under the new section to have been committed.

The reason for the different wording in England and Wales compared with Scotland is apparently to allow for differences in the two jurisdictions and the DSS intention is that they should have the same effect.

Clause 12 extends the summary offence of obtaining benefit by false representation. A person who makes a statement or representation which he knows to be false is guilty of an offence. The clause strengthens this provision and a person who without "reasonable excuse" fails to report a change of circumstances or causes or allows another person to do so will be guilty of an offence. This means that it will be an offence to fail to notify a change in circumstances or knowingly cause or allow another person to do so. The changes in circumstances covered by this provision will be contained in regulations.

Where overpayment of benefit has occurred, generally, a person has to have misrepresented or failed to disclose a material fact for repayment to be required.⁴⁷ Failure to disclose a fact would include not telling the Benefits Agency of relevant changes in circumstances. There is currently no specific offence of failing to notify a change in circumstances - generally the

⁴⁷ Section 71(1) SSAA 1992

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Benefits Agency relies on the wider failure to disclose and sometimes on the misrepresentation provisions to encompass such individuals. Prosecutions of those suspected of benefit fraud are used in a very small proportion of cases. While court action is rare, in many cases action the Benefits Agency attempts to recover money overpaid as benefits. This can be done by stopping payment of the same or most other benefits or by enforcement proceedings in the county courts. Where recovery is through stopping Income Support, the maximum which can be deducted from weekly benefit is £9.60 if a person has admitted fraud or been found guilty of fraud or £7.20 in any other case.

Clause 13 provides for a 30% penalty payment to be made in addition to an overpayment as an alternative to court action. This will apply to overpayments of centrally administered benefits and housing and council tax benefit. The imposition of a penalty payment will only be allowed where it appears that the overpayment is attributable to an act or omission on the part of an individual and there are grounds for instituting proceedings for an offence in relation to the overpayment. Following written notice by the Secretary of State a person can agree to pay the penalty in the same way as overpayments are recouped. No proceedings relating to the overpayment will be instituted against a person agreeing to pay the 30% penalty.

According to the DSS, the rate of penalty needs to reflect a level that is high enough to be seen as punitive without being set too high so as to provide a disincentive to accepting the penalty. The level chosen is comparable to fines imposed by other government departments when the differing client groups are taken into consideration.

Estimates accompanying the Bill reckon there will be around 25,000 overpayment penalty cases each year of which 5,000 will involve local authorities. For the DSS extra costs are estimated at around £3 million per year with anticipated savings of £3.9 million. For local authorities the extra costs will be around £800,000 with up to £1 million collected in penalties.

Clause 14 amends section 75 of the 1992 Act, which provides for the recovery of overpayments of HB, to allow local authorities to recover HB overpayments from payments made directly to a landlord or his agent in respect of other tenants where, for example, the original tenant, in respect of whom the overpayment arose, has vacated the landlord's property. Payments subject to a deduction in this way will still discharge the liability of the other tenant to the landlord.

Where overpayments are not recovered by deductions from benefits the clause provides for their recovery by action in the county court in England and Wales and in the sheriff's court in Scotland. This measure will align HB with other social security benefits by allowing a HB

overpayment determination to be treated as a proof of debt which can then be registered as a court order.

The local authority associations have welcomed this extension to their powers to recover benefit overpayments but are disappointed that the Bill will not go further to require the registration of landlords owning more than 20 homes in respect of which HB is payable, and to allow the refusal of HB payments where they are not allowed to inspect properties.⁴⁸ Specific measures that the associations would like to see introduced include:⁴⁹

- a requirement on letting agents to give local councils the name of an owner of a property;
- a power to cease a claim if refused entry to a property;
- a requirement for a register of all landlords who own more than 20 properties.

The London Housing Unit, which believes that the main cause of the growth in HB fraud is the ability of private landlords to make uncontrolled rent increases,⁵⁰ has urged the Government to put more emphasis on the targeting of these landlords.⁵¹

The Association of Residential Letting Agents (ARLA) is concerned that landlords will have no automatic right of appeal over the recovery of benefit in this manner and has issued the following response to clause 14:⁵²

'Such arbitrary, tribunal-style justice will cause respectable landlords and their agents to turn away all Housing Benefit tenants and leave the housing of such tenants to the unscrupulous who often offer the poorest quality accommodation.

This will help to defeat the government's avowed intention of enlisting the private rented sector to make up the shortfall in housing association and local authority housing.'

CHAR, the housing campaign for single people, is of the view that clause 14 could exacerbate problems which already occur where overpayments of benefit are recovered from landlords who cannot recover the money from the tenants concerned because they have moved on. CHAR's response to the Bill makes the following points:⁵³

⁴⁸ *ibid*

⁴⁹ ADC press notice, *Local authorities need more resources to tackle fraudsters*, 15 November 1996

⁵⁰ See pages 11-12

⁵¹ "Government told to re-route fraud investigations", *Housing Today*, 31 October 1996

⁵² ARLA press notice, *ARLA reaction to DSS Fraud Bill*, 18 November 1996

⁵³ CHAR's response to the Government's Fraud Bill

- Many accommodation providers could find themselves with cash-flow problems if their rental income was reduced. Those most likely to suffer are small housing associations, the many hostels with few resources, and private sector landlords who rely on rent to pay the mortgage on the property they rent out.
- Other tenants whose HB is being used to make up the overpayment could be affected. Although this is not the government's intention, it is possible that landlords will still expect other tenants to cover their rents - failure to do so could result in harassment or the eventual loss of their deposit when they leave the property.
- The widespread discrimination against claimants in the private rented sector will be exacerbated by this part of the Bill. One of the major reasons for the current bias is that HB problems, ie shortfalls and delayed payments, lead the majority of landlords to seek to let to those in work. This change will provide another deterrent to letting to people on benefits. It is particularly worrying as it will have the greatest effect on those landlords who have more than one tenant on benefit.

D. Reviews and medical examinations (Clauses 15-16)

Disability living allowance (DLA) and attendance allowance are benefits available to severely disabled people. The present benefit structure dates back to April 1992 when mobility and attendance allowances for people under 65 were replaced by DLA. This is one benefit with separate components for care and mobility. Attendance allowance remains to meet the care needs of those 65 and over. Currently, awards of DLA and attendance allowance can be made for a limited period (with a minimum of 6 months) or for life. Recipients of DLA/attendance allowance can apply for their awards to be reviewed and it could be advantageous for them to do so if, for example, their condition has worsened to the extent they would be entitled to a higher rate. An adjudication officer can initiate a review of a case where there has been ignorance of a material fact, or a mistake, or a change in circumstances.

Disability working allowance is a tax-free benefit to top-up the earnings of low-paid workers with a disability. Like family credit, it is paid for 26 weeks, usually regardless of changes in circumstances.

Clause 15 enables the Secretary of State to initiate a review of these benefits and carry out investigations to obtain information for that review. It confirms that the Secretary of State may initiate a review of benefit during the course of the current benefit award. The need to clarify the law on this point arises because existing provisions allow benefit reviews to be

initiated "on an application". It has been questioned who can make such an application.⁵⁴ This clause makes it clear that, in addition to the claimant, the Secretary of State can review benefit entitlement during the course of an award and that he can undertake investigations to obtain evidence to support such a review.

These provisions are estimated to cost about £1 million annually, but lead to savings of around £3 million.⁵⁵

Clause 16 gives regulatory powers to the Secretary of State to require existing recipients of disability living allowance and attendance allowance to undergo a medical examination. It also provides for payment of benefit to be withheld if a person fails to attend a medical examination. If benefit entitlement is subsequently confirmed, the clause further allows for any withheld benefit to be paid.

Currently such powers only exist when an initial claim is being determined.⁵⁶ Where an award has already been made and it is alleged that the person should not or no longer be entitled to benefit there is no power to require a person to undergo a medical examination. The clause enables regulations to provide such powers.

Schedule 1 para 2 amends the Social Security Administration Act so that a referral for a medical examination is no longer for the person who applied for review, but for the person in respect of whom the review is being made. If the amendment were not made the implication is that applications for review made by the Secretary of State would require him, rather than the benefit claimant, to attend a medical examination.

The Disability Alliance have expressed concern that these changes are being made in the absence of any hard evidence of the existence of widespread fraud of either DLA or Attendance Allowance. They also believe that existing powers are sufficient to deal with cases of fraud and the extension of the powers proposed in the bill could lead to "fishing" exercises where there is no existing evidence of fraud. The Alliance also believes that the regulatory powers given to the Secretary of State in respect of medical examinations should be more clearly defined, particularly they should only be applied where there is evidence of a change in circumstances.

⁵⁴ For example, in Disability Rights Bulletin Summer 1996 "Disability Living Allowance and Benefits Agency Investigations"

⁵⁵ Financial Memorandum to the Bill

⁵⁶ S.54 SSAA 1992

E. National insurance numbers (Clause 17)

A national insurance (NI) number is generally allocated to a person in the year preceding their 16th birthday and marks the registration of that person within the state social security system. People who have never been given a number can apply to their local social security office with documentary evidence of their identity such as a passport, EC identity card or Home Office standard acknowledgement letter.

NI numbers are also used as reference numbers in the national computerised PAYE system and the Inland Revenue has transferred names, addresses, dates of birth and titles of contributors from the DSS computer.

The original purpose of the NI number was to record an individual's contributions but with the increased computerisation of the benefits system, they have become more important in making claims for social security benefit. However, it is not currently essential to have a NI number to claim benefits. Legally claimants can receive benefit if they fulfil the conditions of entitlement. These vary from benefit to benefit, but possession of a NI number is not one of them. However, the Secretary of State (or the officer acting in this capacity) will need information and evidence in order to ensure that the claimant does satisfy the conditions. In particular he or she will need to be satisfied that the claimant is who they say they are. For most benefits, including income support, the computer systems have a field for the NI number, so that the claim could not be processed on the computer without this information. However, provided the officer is satisfied about the claimant's identity, the claim can be processed clerically. For example, where a claimant needed to apply for a NI number, the Benefits Agency office could assist them with this, and also process their income support claim.

There has been concern expressed over the past few years about the number of NI numbers in circulation and the use of false numbers to perpetuate benefit fraud⁵⁷. In response to this, the Contributions Agency (the executive agency of the DSS which deals with NI numbers and records of contributions) is preparing for the introduction of a new recording system which is due to be operational by 1997. Staff who allocate NI numbers have also been receiving extra training to combat fraudulent applications for NI numbers.⁵⁸

⁵⁷ Social Security Select Committee Fifth Report, *The Work of the Department of Social Security and its Agencies*, 1 November 1995 para 16

⁵⁸ Department of Social Security Press Notice, *Fraud Savings Hit New High*, 5 August 1996

General conditions for entitlement to benefit (as opposed to specific conditions for individual benefits) are covered by the *Social Security Administration Act 1992*, Section 1, and the Bill contains provisions to supplement these.

Clause 17 of the Bill proposes adding to the general conditions for entitlement to benefit by making it a condition that a claimant, and anybody on whose behalf a claim is being made, either has a national insurance number or has the evidence to enable him/her to be allocated with one.

Section (1B) will require that in order to become entitled to any benefit a claim must be accompanied either by:

- a national insurance number and evidence that the number has been allocated to that person; *or*
- information which will enable the claimant's number to be ascertained.

If a claimant does not have a national insurance number they will need to apply for one with the necessary evidence before they can become entitled to benefit. Those without national insurance numbers will usually be those from abroad but people whose parents did not claim child benefit and who have not worked may also come into this category.

The evidence required to prove a NI number belongs to the claimant currently depends on the circumstances of the case and will vary according to the DSS officer's view of each case. Items which may be required to confirm a NI number, according to the DSS, include wage slips, medical certificates and passports. There is a form to apply for a new NI number and officers may ask for a passport to confirm a person's identity. Providing false information for these purposes will be an offence. These procedures will not be altered by the proposals in the Bill but they will become a condition of entitlement to benefit. Concern has been expressed that this amounts to a method of immigration control and this combined with the provisions for exchange of information between Government departments contained in the Bill is likely to fuel this concern.⁵⁹

Section (1C) allows for regulations to be made which can exempt these provisions from certain benefits, people or "in other prescribed circumstances."

⁵⁹ Child Poverty Action Group, *Ethnic Minorities Handbook*, 1st Edition, p.104

According to the Financial memorandum to the Bill, the estimated annual cost of these provisions is £50, 000 but the savings they will produce are "difficult to quantify".

F. Redirection of post and Data Matching (Clauses 18-19)

The issue of claimants arranging for their mail to be redirected to enable them to perpetuate a fraudulent claim was raised by the Social Security Select Committee.⁶⁰ The Committee was informed that requests from local authorities that mail be returned if it was marked 'Please do not redirect' were ignored by the Post Office. A Post Office memorandum to the committee explained that they were resisting such requests because there were a number of operational and commercial implications.⁶¹

In order to obtain information from the Post Office's address database, DSS and local authority staff must currently apply on a case by case basis showing they have good cause to suspect an individual of fraudulent activity.

Clause 18 inserts new sections 182A to the 1992 Act, and 158A to the 1992 Northern Ireland Act. These would require social security and local authority mail which would otherwise be redirected, to be returned to the sender. Section 182A(2) will allow reasonable payments to be made to the distributor of mail for this service.

Section 182A(6) makes an exemption for mail which is under a court order to be redirected to the trustees of somebody who has been declared bankrupt. Payments issued are redirected to trustees to enable them to use the money to repay debtors.

Clause 19 inserts new sections 182(B) to the 1992 Act and 158(B) to the 1992 Northern Ireland Act. It would enable staff of the DSS and local authorities to have access to the Post Office database which details information of people who have paid for their mail to be redirected. This would remove the need to apply on a case by case basis and would enable officers to cross reference people who appear both on their own databases and the Post Office's. They will then be able to investigate why these people are having their mail forwarded and if it is being done as part of fraudulent activity. Section 182(B)(4) will allow reasonable payments to be made to the Post Office for this service.

⁶⁰ Social Security Select Committee Third Report, *Housing Benefit Fraud*, 1 May 1996 HC90-1 1995-6 para 80

⁶¹ *ibid* para 82

Sections 182(B)(5) would prevent the further disclosure of this information to non Government departments unless it is to be supplied for the purposes of any civil or criminal proceedings relating to the *Social Security Administration Act 1992*, the *Contributions and Benefit Act* or the *Jobseekers Act 1995* (or corresponding Northern Ireland legislation).

Section 182(B)(6) would allow the further disclosure of information to other Government departments, such as the Inland Revenue and the Home Office, if it has been used to alter details which may affect that department's dealings with the individual concerned.

Jonathan Bamford, assistant registrar to the Data Protection Registrar, has recently expressed concern that unless data matching techniques are supported by skilled human intervention and adequate safeguards, they may result in "unwanted consequences for innocent individuals [which] may undermine the value of such activities".⁶²

In their response to the Bill, the Post Office have highlighted concerns about how both the measures will affect them as the major distributor of social security and local authority mail. While they are committed to the fight against benefit fraud, they feel the bill has been prepared too hastily and the lack of consultation with the postal service may result in problems with the practical implementation of the measures. They argue these problems could damage the reputation of the Royal Mail. The issues raised by the Post Office are:

- The fact that mail is marked 'do not redirect' will highlight the fact that it may include a payment and this has implications for the secure return of such mail.
- it will be practically difficult to distinguish mail redirected to trustees of people who are bankrupt and this could result in the Royal Mail failing to comply with a court order.
- innocent individuals who have paid for their mail to be redirected may suffer as a result of both measures.
- the reputation of the Royal Mail could be tarnished if they are seen as part of mechanisms to disclose personal information to other Government departments.
- the cost implications for the postal service to change operational procedures and how the department will evaluate the level of "reasonable costs" to finance these changes.

The DSS and the Post Office are currently in the early stages of discussions on how these measures will work in practice and the costs involved. In the financial memorandum to the

⁶² "A match made in data", *Institute of Revenues, Rating and Valuation Supplement*, 4 October 1996

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Bill, the DSS have estimated the cost of preventing redirection of mail at £250,000 which would result in savings in the region of £1 million. The annual running costs for accessing the postal redirection database are estimated at £400,000 per year leading to annual savings in the region of £2.2 million.

G. Commencement

Clause 23 provides for the Act's sections and their provisions to be brought into force individually by order.

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Section Code: SPS

Title: The Social Security Administration (Fraud) Bill [Bill 15 of 1996/97]

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