



Social Security Administration Act 1992

1992 CHAPTER 5

PART VI

ENFORCEMENT

Inspection and offences

[^{F1}109A Authorisations for investigators

- (1) An individual who for the time being has the Secretary of State's authorisation for the purposes of this Part shall be entitled, for any one or more of the purposes mentioned in subsection (2) below, to exercise any of the powers which are conferred on an authorised officer by sections 109B and 109C below.
- (2) Those purposes are—
 - (a) ascertaining in relation to any case whether a benefit is or was payable in that case in accordance with any provision of the relevant social security legislation;
 - (b) investigating the circumstances in which any accident, injury or disease which has given rise, or may give rise, to a claim for—
 - (i) industrial injuries benefit, or
 - (ii) any benefit under any provision of the relevant social security legislation, occurred or may have occurred, or was or may have been received or contracted;
 - (c) ascertaining whether provisions of the relevant social security legislation are being, have been or are likely to be contravened (whether by particular persons or more generally);
 - (d) preventing, detecting and securing evidence of the commission (whether by particular persons or more generally) of benefit offences.
- (3) An individual has the Secretary of State's authorisation for the purposes of this Part if, and only if, the Secretary of State has granted him an authorisation for those purposes and he is—

Status: Point in time view as at 06/04/2016.

Changes to legislation: Social Security Administration Act 1992, Part VI is up to date with all changes known to be in force on or before 23 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) an official of a Government department;
 - (b) an individual employed by an authority administering housing benefit or council tax benefit;
 - (c) an individual employed by an authority or joint committee that carries out functions relating to housing benefit or council tax benefit on behalf of the authority administering that benefit; or
 - (d) an individual employed by a person authorised by or on behalf of any such authority or joint committee as is mentioned in paragraph (b) or (c) above to carry out functions relating to housing benefit or council tax benefit for that authority or committee.
- (4) An authorisation granted for the purposes of this Part to an individual of any of the descriptions mentioned in subsection (3) above—
- (a) must be contained in a certificate provided to that individual as evidence of his entitlement to exercise powers conferred by this Part;
 - (b) may contain provision as to the period for which the authorisation is to have effect; and
 - (c) may restrict the powers exercisable by virtue of the authorisation so as to prohibit their exercise except for particular purposes, in particular circumstances or in relation to particular benefits or particular provisions of the relevant social security legislation.
- (5) An authorisation granted under this section may be withdrawn at any time by the Secretary of State.
- (6) Where the Secretary of State grants an authorisation for the purposes of this Part to an individual employed by a local authority, or to an individual employed by a person who carries out functions relating to housing benefit or council tax benefit on behalf of a local authority—
- (a) the Secretary of State and the local authority shall enter into such arrangements (if any) as they consider appropriate with respect to the carrying out of functions conferred on that individual by or in connection with the authorisation granted to him; and
 - (b) the Secretary of State may make to the local authority such payments (if any) as he thinks fit in respect of the carrying out by that individual of any such functions.
- (7) The matters on which a person may be authorised to consider and report to the Secretary of State under section 139A below shall be taken to include the carrying out by any such individual as is mentioned in subsection (3)(b) to (d) above of any functions conferred on that individual by virtue of any grant by the Secretary of State of an authorisation for the purposes of this Part.
- (8) The powers conferred by sections 109B and 109C below shall be exercisable in relation to persons holding office under the Crown and persons in the service of the Crown, and in relation to premises owned or occupied by the Crown, as they are exercisable in relation to other persons and premises.
- [^{F2}(9) This section and sections 109B to 109C below apply as if—
- (a) the Tax Credits Act 2002 were relevant social security legislation, and
 - (b) accordingly, child tax credit and working tax credit were relevant social security benefits for the purposes of the definition of “benefit offence“.]

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Textual Amendments

- F1** Ss. 109A, 109B, 109C substituted for s. 110 (2.4.2001) by the [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), s. 86, [Sch. 6 para. 2](#); S.I. 2001/1252, art. 2(1)(a)
- F2** S. 109A(9) inserted (6.6.2012) by [Welfare Reform Act 2012 \(c. 5\)](#), [ss. 122](#), 150(3); S.I. 2012/1246, art. 2(2) (as amended (31.5.2012) by S.I. 2012/1440, art. 2)

109B Power to require information

- (1) An authorised officer who has reasonable grounds for suspecting that a person—
- (a) is a person falling within subsection (2) [^{F3}or (2A)] below, and
 - (b) has or may have possession of or access to any information about any matter that is relevant for any one or more of the purposes mentioned in section 109A(2) above,
- may, by written notice, require that person to provide all such information described in the notice as is information of which he has possession, or to which he has access, and which it is reasonable for the authorised officer to require for a purpose so mentioned.
- (2) The persons who fall within this subsection are—
- (a) any person who is or has been an employer or employee within the meaning of any provision made by or under the Contributions and Benefits Act;
 - (b) any person who is or has been a self-employed earner within the meaning of any such provision;
 - (c) any person who by virtue of any provision made by or under that Act falls, or has fallen, to be treated for the purposes of any such provision as a person within paragraph (a) or (b) above;
 - (d) any person who is carrying on, or has carried on, any business involving the supply of goods for sale to the ultimate consumers by individuals not carrying on retail businesses from retail premises;
 - (e) any person who is carrying on, or has carried on, any business involving the supply of goods or services by the use of work done or services performed by persons other than employees of his;
 - (f) any person who is carrying on, or has carried on, an agency or other business for the introduction or supply, to persons requiring them, of persons available to do work or to perform services;
 - (g) any local authority acting in their capacity as an authority responsible for the granting of any licence;
 - (h) any person who is or has been a trustee or manager of a personal or occupational pension scheme;
 - (i) any person who is or has been liable to make a compensation payment or a payment to the Secretary of State under section 6 of the Social Security (Recovery of Benefits) Act 1997 (payments in respect of recoverable benefits);
 - [^{F4}(ia) a person of a prescribed description;] and
 - (j) the servants and agents of any such person as is specified in any of paragraphs (a) to [^{F5}(ia)] above.

[^{F6}(2A) The persons who fall within this subsection are—

- (a) any bank;

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- [the Director of National Savings;]
- ^{F7}(aa) (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;
- ^{F8}(c) any insurer;]
- (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, [^{F9}Scottish Water or any local authority which is to collect charges by virtue of an order under section 37 of the [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#)];
- ^{F10}(h) any person who—
- (i) is the holder of a licence under section 7 of the Gas Act 1986 (c. 44) to convey gas through pipes, or
- (ii) is the holder of a licence under section 7A(1) of that Act to supply gas through pipes;]
- ^{F11}(i) any person who (within the meaning of the Electricity Act 1989 (c. 29)) distributes or supplies electricity;]
- (j) any person who provides a telecommunications service;
- (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 [^{F12}Scottish Water,]

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- (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.]
- (3) The obligation of a person to provide information in accordance with a notice under this section shall be discharged only by the provision of that information, at such reasonable time and in such form as may be specified in the notice, to the authorised officer who—
- (a) is identified by or in accordance with the terms of the notice; or
 - (b) has been identified, since the giving of the notice, by a further written notice given by the authorised officer who imposed the original requirement or another authorised officer.
- (4) The power of an authorised officer under this section to require the provision of information shall include a power to require the production and delivery up and (if necessary) creation of, or of copies of or extracts from, any such documents containing the information as may be specified or described in the notice imposing the requirement.
- [^{F13}(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 [^{F14}married or is a civil partner, his spouse or civil partner]; 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.]
- [^{F15}(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—
- [^{F16}“bank” means—

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- (a) a person who has permission under [^{F17}Part 4A] of the Financial Services and Markets Act 2000 (c. 8) to accept deposits;
- (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to accept deposits or other repayable funds from the public; or
- (c) a person who does not require permission under that Act to accept deposits, in the course of his business in the United Kingdom;]

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

[^{F18}“insurer” means—

- (a) a person who has permission under [^{F17}Part 4A] of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance; or
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of insurance;]

“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).]

[^{F19}(7A) The definitions of “bank” and “insurer” in subsection (7) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.]]

Textual Amendments

- F1** Ss. 109A, 109B, 109C substituted for s. 110 (2.4.2001) by the [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), s. 86, [Sch. 6 para. 2](#); S.I. 2001/1252, art. 2(1)(a)
- F3** Words in s. 109B(1)(a) inserted (30.4.2002) by [Social Security Fraud Act 2001 \(c. 11\)](#), [ss. 1\(2\)](#), 20(1); S.I. 2002/1222, art. 2(a)
- F4** S. 109B(2)(ia) inserted (17.6.2013 for specified purposes, 1.10.2013 in so far as not already in force) by [Welfare Reform Act 2012 \(c. 5\)](#), [ss. 110\(a\)](#), 150(3); S.I. 2013/1250, art. 3
- F5** Word in s. 109B(2)(j) inserted (17.6.2013 for specified purposes, 1.10.2013 in so far as not already in force) by [Welfare Reform Act 2012 \(c. 5\)](#), [ss. 110\(b\)](#), 150(3); S.I. 2013/1250, art. 3
- F6** Ss. 109B(2A)-(2F) inserted (30.4.2002) by [Social Security Fraud Act 2001 \(c. 11\)](#), [ss. 1\(2\)](#), 20(1); S.I. 2002/1222, art. 2(a)
- F7** S. 109B(2A)(aa) inserted (1.4.2002) by [The Social Security Administration Act 1992 \(Amendment\) Order 2002 \(S.I. 2002/817\)](#), arts. 1, [2\(a\)](#)
- F8** S. 109B(2A)(c) substituted (1.4.2002) by [The Social Security Administration Act 1992 \(Amendment\) Order 2002 \(S.I. 2002/817\)](#), arts. 1, [2\(b\)](#)
- F9** Words in s. 109B(2A)(g) substituted (14.7.2004) by [The Water Industry \(Scotland\) Act 2002 \(Consequential Modifications\) Order 2004 \(S.I. 2004/1822\)](#), art. 1(1), [Sch. para. 16\(a\)](#)
- F10** S. 109B(2A)(h) substituted (1.4.2002) by [The Social Security Administration Act 1992 \(Amendment\) Order 2002 \(S.I. 2002/817\)](#), arts. 1, [2\(c\)](#)

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- F11** S. 109B(2A)(i) substituted (1.4.2002) by The Social Security Administration Act 1992 (Amendment) Order 2002 (S.I. 2002/817), arts. 1, **2(d)**
- F12** Words in s. 109B(2D)(a) substituted (14.7.2004) by The Water Industry (Scotland) Act 2002 (Consequential Modifications) Order 2004 (S.I. 2004/1822), art. 1(1), **Sch. para. 16(b)**
- F13** S. 109B(5) substituted (30.4.2002) by Social Security Fraud Act 2001 (c. 11), **ss. 1(3)**, 20(1); S.I. 2002/1222, art. 2(a)
- F14** Words in s. 109B(5)(a) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(8)(d), **Sch. 24 para. 64**; S.I. 2005/3175, art. 2(1), Sch. 1
- F15** S. 109B(6)(7) inserted (26.2.2002) by Social Security Fraud Act 2001 (c. 11), **ss. 1(4)**, 20(1); S.I. 2002/403, art. 2(a)
- F16** Words in s. 109B(7) substituted (1.4.2002) by The Social Security Administration Act 1992 (Amendment) Order 2002 (S.I. 2002/817), arts. 1, **3(a)(i)**
- F17** Words in s. 109B(7) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 18 para. 74(3)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F18** Words in s. 109B(7) inserted (1.4.2002) by The Social Security Administration Act 1992 (Amendment) Order 2002 (S.I. 2002/817), arts. 1, **3(a)(ii)**
- F19** S. 109B(7A) inserted (1.4.2002) by The Social Security Administration Act 1992 (Amendment) Order 2002 (S.I. 2002/817), arts. 1, **3(b)**

[^{F20}109B] Power of Secretary of State to require electronic access to information

- (1) Subject to subsection (2) below, where it appears to the Secretary of State—
 - (a) that a person falling within section 109B(2A) keeps any electronic records,
 - (b) that the records contain or are likely, from time to time, to contain information about any matter that is relevant for any one or more of the purposes mentioned in section 109A(2) above, and
 - (c) that facilities exist under which electronic access to those records is being provided, or is capable of being provided, by that person to other persons,the Secretary of State may require that person to enter into arrangements under which authorised officers are allowed such access to those records.
- (2) An authorised officer—
 - (a) shall be entitled to obtain information in accordance with arrangements entered into under subsection (1) above only if his authorisation states that his authorisation applies for the purposes of that subsection; and
 - (b) shall not seek to obtain any information in accordance with any such arrangements other than information which relates to a particular person and could be the subject of a requirement under section 109B above.
- (3) The matters that may be included in the arrangements that a person is required to enter into under subsection (1) above may include—
 - (a) requirements as to the electronic access to records that is to be made available to authorised officers;
 - (b) requirements as to the keeping of records of the use that is made of the arrangements;
 - (c) requirements restricting the disclosure of information about the use that is made of the arrangements; and
 - (d) such other incidental requirements as the Secretary of State considers appropriate in connection with allowing access to records to authorised officers.

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- (4) An authorised officer who is allowed access in accordance with any arrangements entered into under subsection (1) above shall be entitled to make copies of, and to take extracts from, any records containing information which he is entitled to require under section 109B.]

Textual Amendments

F20 S. 109BA inserted (30.4.2002) by [Social Security Fraud Act 2001 \(c. 11\)](#), **ss. 2(1)**, 20(1); S.I. 2002/1222, art. 2(b)

[^{F1}109C Powers of entry

- (1) An authorised officer shall be entitled, at any reasonable time and either alone or accompanied by such other persons as he thinks fit, to enter any premises which—
- (a) are liable to inspection under this section; and
 - (b) are premises to which it is reasonable for him to require entry in order to exercise the powers conferred by this section.
- (2) An authorised officer who has entered any premises liable to inspection under this section may—
- (a) make such an examination of those premises, and
 - (b) conduct any such inquiry there,
- as appears to him appropriate for any one or more of the purposes mentioned in section 109A(2) above.
- (3) An authorised officer who has entered any premises liable to inspection under this section may—
- (a) question any person whom he finds there;
 - (b) require any person whom he finds there to do any one or more of the following—
 - (i) to provide him with such information,
 - (ii) to produce and deliver up and (if necessary) create such documents or such copies of, or extracts from, documents,
 as he may reasonably require for any one or more of the purposes mentioned in section 109A(2) above; and
 - (c) take possession of and either remove or make his own copies of any such documents as appear to him to contain information that is relevant for any of those purposes.
- (4) The premises liable to inspection under this section are any premises (including premises consisting in the whole or a part of a dwelling house) which an authorised officer has reasonable grounds for suspecting are—
- (a) premises which are a person's place of employment;
 - (b) premises from which a trade or business is being carried on or where documents relating to a trade or business are kept by the person carrying it on or by another person on his behalf;
 - (c) premises from which a personal or occupational pension scheme is being administered or where documents relating to the administration of such a scheme are kept by the person administering the scheme or by another person on his behalf;

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- (d) premises where a person who is the compensator in relation to any such accident, injury or disease as is referred to in section 109A(2)(b) above is to be found;
 - (e) premises where a person on whose behalf any such compensator has made, may have made or may make a compensation payment is to be found.
- (5) An authorised officer applying for admission to any premises in accordance with this section shall, if required to do so, produce the certificate containing his authorisation for the purposes of this Part.
- (6) Subsection (5) of section 109B applies for the purposes of this section as it applies for the purposes of that section.]

Textual Amendments

- F1** Ss. 109A, 109B, 109C substituted for s. 110 (2.4.2001) by the [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), s. 86, [Sch. 6 para. 2](#); S.I. 2001/1252, art. 2(1)(a)

^{F21}110 Appointment and powers of inspectors

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Textual Amendments

- F21** S. 110 substituted by ss. 109A-109C (2.4.2001) by the [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), s. 86, [Sch. 6 para. 2](#); S.I. 2001/1252, art. 2(1)(a)

^{F22}110Z~~110~~ Class 1, 1A, 1B or 2 contributions: powers to call for documents etc

^{F23}(1) Schedule 36 to the Finance Act 2008 (information and inspection powers) applies for the purpose of checking a person's position as regards relevant contributions as it applies for the purpose of checking a person's tax position, subject to the modifications in subsection (2).

(2) That Schedule applies as if—

- (a) references to any provision of the Taxes Acts were to any provision of this Act or the Contributions and Benefits Act ^{F24}or the National Insurance Contributions Act 2014] relating to relevant contributions,
- (b) references to prejudice to the assessment or collection of tax were to prejudice to the assessment of liability for, and payment of, relevant contributions,
- (c) the reference to information relating to the conduct of a pending appeal relating to tax were a reference to information relating to the conduct of a pending appeal relating to relevant contributions, and
- (d) paragraphs 21 ^{F25}, 21A], ^{F26}35(4A)(c), 36, 37(2) ^{F27}and (2A)], 37A and 37B] of that Schedule (restrictions on giving taxpayer notice where taxpayer has made tax return) were omitted.]

^{F28}(2A) Part 3 of Schedule 38 to the Finance Act 2012 (power to obtain tax agent's files etc) applies in relation to relevant contributions as in relation to tax and, accordingly—

- (a) the cases described in paragraph 7 of that Schedule (case A and case B) include cases involving conduct or an offence relating to relevant contributions,

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- (b) (whether the case involves conduct or an offence relating to tax or relevant contributions) the papers and other documents that may be sought under that Part include ones relating to relevant contributions, and
 - (c) the other Parts of that Schedule apply so far as necessary to give effect to the application of Part 3 by virtue of this subsection.]
- (3) In this section “relevant contributions” means Class 1, Class 1A, Class 1B or Class 2 contributions.]

Textual Amendments

- F22** S. 110ZA substituted (6.4.2005) by [National Insurance Contributions and Statutory Payments Act 2004 \(c. 3\), ss. 7, 13](#); S.I. 2004/1943, art. 4(a)
- F23** S. 110ZA(1)(2) substituted (1.4.2009) by [Finance Act 2008 \(c. 9\), s. 113\(2\), Sch. 36 para. 84](#) (with [Sch. 36 para. 38](#)); S.I. 2009/404, art. 2 (with art. 9)
- F24** Words in s. 110ZA(2)(a) inserted (6.4.2014) by [National Insurance Contributions Act 2014 \(c. 7\), ss. 7\(5\), 8](#)
- F25** Word in s. 110ZA(2)(d) inserted (1.4.2010) by [The Finance Act 2009, Section 96 and Schedule 48 \(Appointed Day, Savings and Consequential Amendments\) Order 2009 \(S.I. 2009/3054\), art. 1, Sch. para. 3\(a\)](#)
- F26** Words in s. 110ZA(2)(d) substituted (13.8.2009) by [The Finance Act 2009, Schedule 47 \(Consequential Amendments\) Order 2009 \(S.I. 2009/2035\), art. 1, Sch. para. 27](#)
- F27** Words in s. 110ZA(2)(d) inserted (1.4.2010) by [The Finance Act 2009, Section 96 and Schedule 48 \(Appointed Day, Savings and Consequential Amendments\) Order 2009 \(S.I. 2009/3054\), art. 1, Sch. para. 3\(b\)](#)
- F28** S. 110ZA(2A) inserted (1.4.2013) by [Finance Act 2012 \(c. 14\), Sch. 38 para. 56](#); S.I. 2013/279, art. 2

[^{F29}110AAuthorisations by local authorities

[^{F30}(1) An individual who for the time being has the authorisation for the purposes of this Part of an authority administering housing benefit or council tax benefit (“a local authority authorisation”) shall be entitled, for [^{F31}a relevant purpose], to exercise any of the powers which, subject to subsection (8) below, are conferred on an authorised officer by sections 109B and 109C above.

[^{F32}(1A) Each of the following is a relevant purpose—

- (a) a purpose mentioned in subsection (2) below;
- (b) a purpose mentioned in section 109A(2)(a), (c) or (d).

(1B) If the Secretary of State prescribes conditions for the purposes of this section, an authority must not proceed under this section for a purpose mentioned in section 109A(2)(a), (c) or (d) unless any such condition is satisfied.

(1C) An authorisation made for a purpose mentioned in section 109A(2)(a), (c) or (d)—

- (a) is subject to such restrictions as may be prescribed;
- (b) is not valid in such circumstances as may be prescribed.]

(2) [^{F33}The purposes in this subsection] are—

- (a) ascertaining in relation to any case whether housing benefit or council tax benefit is or was payable in that case;

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- (b) ascertaining whether provisions of the relevant social security legislation that relate to housing benefit or council tax benefit are being, have been or are likely to be contravened (whether by particular persons or more generally);
 - (c) preventing, detecting and securing evidence of the commission (whether by particular persons or more generally) of benefit offences relating to housing benefit or council tax benefit.
- (3) An individual has the authorisation for the purposes of this Part of an authority administering housing benefit or council tax benefit if, and only if, that authority have granted him an authorisation for those purposes and he is—
 - (a) an individual employed by that authority;
 - (b) an individual employed by another authority or joint committee that carries out functions relating to housing benefit or council tax benefit on behalf of that authority;
 - (c) an individual employed by a person authorised by or on behalf of—
 - (i) the authority in question,
 - (ii) any such authority or joint committee as is mentioned in paragraph (b) above,to carry out functions relating to housing benefit or council tax benefit for that authority or committee;
 - (d) an official of a Government department.
- (4) Subsection (4) of section 109A above shall apply in relation to a local authority authorisation as it applies in relation to an authorisation under that section.
- (5) A local authority authorisation may be withdrawn at any time by the authority that granted it or by the Secretary of State.
- (6) The certificate or other instrument containing the grant or withdrawal by any local authority of any local authority authorisation must be issued under the hand of either—
 - (a) the officer designated under section 4 of the Local Government and Housing Act 1989 as the head of the authority's paid service; or
 - (b) the officer who is the authority's chief finance officer (within the meaning of section 5 of that Act).
- (7) It shall be the duty of any authority with power to grant local authority authorisations to comply with any directions of the Secretary of State as to—
 - (a) whether or not such authorisations are to be granted by that authority;
 - (b) the period for which authorisations granted by that authority are to have effect;
 - (c) the number of persons who may be granted authorisations by that authority at any one time; and
 - (d) the restrictions to be contained by virtue of subsection (4) above in the authorisations granted by that authority for those purposes.
- (8) The powers conferred by sections 109B and 109C above shall have effect in the case of an individual who is an authorised officer by virtue of this section as if those sections had effect—
 - (a) with the substitution for every reference to the purposes mentioned in section 109A(2) above of a reference to the purposes mentioned in subsection (2) above; ^{F34}...

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- (b) with the substitution for every reference to the relevant social security legislation of a reference to so much of it as relates to housing benefit or council tax benefit [^{F35}; and
 - (c) with the omission of section 109B(2D).]
- [^{F36}but paragraphs (a) and (b) above do not apply in any case where the relevant purpose is as mentioned in subsection (1A)(b) above.]
- (9) Nothing in this section conferring any power on an authorised officer in relation to housing benefit or council tax benefit shall require that power to be exercised only in relation to cases in which the authority administering the benefit is the authority by whom that officer's authorisation was granted.]]

Textual Amendments

- F29** S. 110A substituted for ss. 110A, 110B (2.4.2001) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), s. 86, [Sch. 6 para. 3](#); S.I. 2001/1252, art. 2(1)(a)
- F30** S. 110A repealed (1.4.2013 in so far as relates to the abolition of council tax benefit) by [Welfare Reform Act 2012 \(c. 5\)](#), s. 150(3), [Sch. 14 Pt. 1](#); S.I. 2013/358, art. 8(c), [Sch. 4](#) (with arts. 9, 10, Sch. 5)
- F31** Words in s. 110A(1) substituted (19.2.2008 for specified purposes, 7.4.2008 in so far as not already in force) by [Welfare Reform Act 2007 \(c. 5\)](#), [ss. 46\(2\)](#), 70(2); S.I. 2008/411, art. 2(4)(a)(5)
- F32** S. 110A(1A)-(1C) inserted (19.2.2008 for specified purposes, 7.4.2008 in so far as not already in force) by [Welfare Reform Act 2007 \(c. 5\)](#), [ss. 46\(3\)](#), 70(2); S.I. 2008/411, art. 2(4)(a)(5)
- F33** Words in s. 110A(2) substituted (19.2.2008 for specified purposes, 7.4.2008 in so far as not already in force) by [Welfare Reform Act 2007 \(c. 5\)](#), [ss. 46\(4\)](#), 70(2); S.I. 2008/411, art. 2(4)(a)(5)
- F34** Word in s. 110A(8) repealed (30.4.2002) by [Social Security Fraud Act 2001 \(c. 11\)](#), s. 20(1), [Sch.](#); S.I. 2002/1222, art. 2(i)
- F35** S. 110A(8)(c) and preceding word inserted (30.4.2002) by [Social Security Fraud Act 2001 \(c. 11\)](#), [ss. 1\(5\)](#), 20(1); S.I. 2002/1222, art. 2(a)
- F36** Words in s. 110A(8) inserted (19.2.2008 for specified purposes, 7.4.2008 in so far as not already in force) by [Welfare Reform Act 2007 \(c. 5\)](#), [ss. 46\(5\)](#), 70(2); S.I. 2008/411, art. 2(4)(a)(5)

[^{F37}110A] **Power of local authority to require electronic access to information**

- [^{F38}(1) Subject to subsection (2) below, where it appears to an authority administering housing benefit or council tax benefit-
- (a) that a person falling within section 109B(2A) keeps any electronic records,
 - (b) that the records contain or are likely, from time to time, to contain information about any matter that is relevant for any one or more of the purposes mentioned in section 110A(2) above, and
 - (c) that facilities exist under which electronic access to those records is being provided, or is capable of being provided, by that person to other persons,
- that authority may require that person to enter into arrangements under which authorised officers are allowed such access to those records.
- (2) An authorised officer—
- (a) shall be entitled to obtain information in accordance with arrangements entered into under subsection (1) above only if his authorisation states that his authorisation applies for the purposes of that subsection; and
 - (b) shall not seek to obtain any information in accordance with any such arrangements other than information which—

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- (i) relates to a particular person; and
 - (ii) could be the subject of any such requirement under section 109B above as may be imposed in exercise of the powers conferred by section 110A(8) above.
- (3) The matters that may be included in the arrangements that a person is required to enter into under subsection (1) above may include—
- (a) requirements as to the electronic access to records that is to be made available to authorised officers;
 - (b) requirements as to the keeping of records of the use that is made of the arrangements;
 - (c) requirements restricting the disclosure of information about the use that is made of the arrangements; and
 - (d) such other incidental requirements as the authority in question considers appropriate in connection with allowing access to records to authorised officers.
- (4) An authorised officer who is allowed access in accordance with any arrangements entered into under subsection (1) above shall be entitled to make copies of, and to take extracts from, any records containing information which he is entitled to make the subject of a requirement such as is mentioned in subsection (2)(b) above.
- (5) An authority administering housing benefit or council tax benefit shall not—
- (a) require any person to enter into arrangements for allowing authorised officers to have electronic access to any records; or
 - (b) otherwise than in pursuance of a requirement under this section, enter into any arrangements with a person specified in section 109B(2A) above for allowing anyone acting on behalf of the authority for purposes connected with any benefit to have electronic access to any private information contained in any records,
- except with the consent of the Secretary of State and subject to any conditions imposed by the Secretary of State by the provisions of the consent.
- (6) A consent for the purposes of subsection (5) may be given in relation to a particular case, or in relation to any case that falls within a particular description of cases.
- (7) In this section “private information”, in relation to an authority administering housing benefit or council tax benefit, means any information held by a person who is not entitled to disclose it to that authority except in compliance with a requirement imposed by the authority in exercise of their statutory powers.]]

Textual Amendments

F37 S. 110AA inserted (30.4.2002) by [Social Security Fraud Act 2001 \(c. 11\)](#), ss. **2(2)**, 20(1); S.I. 2002/1222, art. 2(b)

F38 S. 110AA repealed (1.4.2013 in so far as relates to the abolition of council tax benefit) by [Welfare Reform Act 2012 \(c. 5\)](#), s. 150(3), [Sch. 14 Pt. 1](#); S.I. 2013/358, art. 8(c), [Sch. 4](#) (with arts. 9, 10, [Sch. 5](#))

^{F39} **110B Powers of inspectors appointed under section 110A.**

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Textual Amendments

- F39** S. 110A substituted for ss 110A, 110B (2.4.2001) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\), s. 86, Sch. 6 para. 3](#); S.I. 2001/1252, art. 2(1)(a)

111 Delay, obstruction etc. of inspector

(1) If a person—

- (a) intentionally delays or obstructs an [^{F40}authorised officer] in the exercise of any power under this Act [^{F41}other than an Inland Revenue Power];
- [^{F42}(ab) refuses or neglects to comply with any requirement under section 109BA [^{F43}or 110AA] or with the requirements of any arrangements entered into in accordance with subsection (1) of that section, or]
- (b) refuses or neglects to answer any question or to furnish any information or to produce any document when required to do so under this Act [^{F44}otherwise than in the exercise of an Inland Revenue Power],

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) Where a person is convicted of an offence under [^{F45}subsection (1)(ab) or (b)] above and the refusal or neglect is continued by him after his conviction, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding £40 for each day on which it is continued.

[^{F46}(3) In subsection (1) “Inland Revenue power” means any power conferred on an officer of the Inland Revenue by [^{F47}virtue of] section 110ZA above or by virtue of [^{F48}an authorisation granted under section 109A [^{F49}or 110A]] above.]

^{F50}(4)

Textual Amendments

- F40** Words in s. 111(1)(a) substituted (30.4.2002) by [Social Security Fraud Act 2001 \(c. 11\), ss. 1\(6\), 20\(1\)](#); S.I. 2002/1222, art. 2(a)
- F41** Words in s. 111(1) inserted (1.4.1999) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(3\), Sch. 5 para. 4\(2\)\(a\)](#); S.I. 1999/527, art. 2(b), Sch. 2
- F42** S. 111(1)(ab) substituted (30.4.2002) by [Social Security Fraud Act 2001 \(c. 11\), ss. 2\(3\)\(a\), 20\(1\)](#); S.I. 2002/1222, art. 2(b)
- F43** Words in s. 111(1)(ab) repealed (1.4.2013 in so far as relates to the abolition of council tax benefit) by [Welfare Reform Act 2012 \(c. 5\), s. 150\(3\), Sch. 14 Pt. 1](#); S.I. 2013/358, art. 8(c), Sch. 4 (with arts. 9, 10, Sch. 5)
- F44** Words in s. 111(1) inserted (1.4.1999) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(3\), Sch. 5 para. 4\(2\)\(b\)](#); S.I. 1999/527, art. 2(b), Sch. 2
- F45** Words in s. 111(2) substituted (30.4.2002) by [Social Security Fraud Act 2001 \(c. 11\), ss. 2\(3\)\(b\), 20\(1\)](#); S.I. 2002/1222, art. 2(b)
- F46** S. 111(3)(4) inserted (1.4.1999) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(3\), Sch. 5 para. 4\(3\)](#); S.I. 1999/527, art. 2(b), Sch. 2
- F47** Words in s. 111(3) inserted (6.4.2005) by [National Insurance Contributions and Statutory Payments Act 2004 \(c. 3\), s. 13, Sch. 1 para. 3\(2\)\(a\)](#); S.I. 2004/1943, art. 5(b)(i)
- F48** Words in s. 111(3) substituted (2.4.2001) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\), s. 86, Sch. 6 para. 4\(a\)](#); S.I. 2001/1252, art. 2(1)(a)

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- F49** Words in s. 111(3) repealed (1.4.2013 in so far as relates to the abolition of council tax benefit) by Welfare Reform Act 2012 (c. 5), s. 150(3), **Sch. 14 Pt. 1**; S.I. 2013/358, art. 8(c), Sch. 4 (with arts. 9, 10, Sch. 5)
- F50** S. 111(4) repealed (6.4.2005) by National Insurance Contributions and Statutory Payments Act 2004 (c. 3), s. 13, Sch. 1 para. 3(2)(b), **Sch. 2**; S.I. 2004/1943, arts. 5(b)(i), 6(b)(ii)

Modifications etc. (not altering text)

- C1** S. 111 applied (with modifications) by The Welfare Food Regulations 1996 (S.I. 1996/1434), regs. 1, 22(1), **Sch. 6** (as amended (28.11.2005) by S.I. 2005/3262, regs. 1, 16(d)(i)(e)(i))

[^{F51}111A Dishonest representation for obtaining benefit etc

- (1) If a person dishonestly—
- (a) makes a false statement or representation; [^{F52}or]
 - (b) produces or furnishes, or causes or allows to be produced or furnished, any document or information which is false in a material particular;
 - ^{F53}(c)
 - ^{F53}(d)
- with the view to obtaining any benefit or other payment or advantage under the [^{F54}relevant] social security legislation (whether for himself or for some other person), he shall be guilty of an offence.

[A person shall be guilty of an offence if—

- ^{F55}(1A) (a) there has been a change of circumstances affecting any entitlement of his to any benefit or other payment or advantage under any provision of the relevant social security legislation;
- (b) the change is not a change that is excluded by regulations from the changes that are required to be notified;
 - (c) he knows that the change affects an entitlement of his to such a benefit or other payment or advantage; and
 - (d) he dishonestly fails to give a prompt notification of that change in the prescribed manner to the prescribed person.

(1B) A person shall be guilty of an offence if—

- (a) there has been a change of circumstances affecting any entitlement of another person to any benefit or other payment or advantage under any provision of the relevant social security legislation;
- (b) the change is not a change that is excluded by regulations from the changes that are required to be notified;
- (c) he knows that the change affects an entitlement of that other person to such a benefit or other payment or advantage; and
- (d) he dishonestly causes or allows that other person to fail to give a prompt notification of that change in the prescribed manner to the prescribed person.

(1C) This subsection applies where—

- (a) there has been a change of circumstances affecting any entitlement of a person ('the claimant') to any benefit or other payment or advantage under any provision of the relevant social security legislation;
- (b) the benefit, payment or advantage is one in respect of which there is another person ('the recipient') who for the time being has a right to receive payments

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- to which the claimant has, or (but for the arrangements under which they are payable to the recipient) would have, an entitlement; and
- (c) the change is not a change that is excluded by regulations from the changes that are required to be notified.
- (1D) In a case where subsection (1C) above applies, the recipient is guilty of an offence if—
- (a) he knows that the change affects an entitlement of the claimant to a benefit or other payment or advantage under a provision of the relevant social security legislation;
- (b) the entitlement is one in respect of which he has a right to receive payments to which the claimant has, or (but for the arrangements under which they are payable to the recipient) would have, an entitlement; and
- (c) he dishonestly fails to give a prompt notification of that change in the prescribed manner to the prescribed person.
- (1E) In a case where that subsection applies, a person other than the recipient is guilty of an offence if—
- (a) he knows that the change affects an entitlement of the claimant to a benefit or other payment or advantage under a provision of the relevant social security legislation;
- (b) the entitlement is one in respect of which the recipient has a right to receive payments to which the claimant has, or (but for the arrangements under which they are payable to the recipient) would have, an entitlement; and
- (c) he dishonestly causes or allows the recipient to fail to give a prompt notification of that change in the prescribed manner to the prescribed person.
- (1F) In any case where subsection (1C) above applies but the right of the recipient is confined to a right, by reason of his being a person to whom the claimant is required to make payments in respect of a dwelling, to receive payments of housing benefit—
- (a) a person shall not be guilty of an offence under subsection (1D) or (1E) above unless the change is one relating to one or both of the following—
- (i) the claimant's occupation of that dwelling;
- (ii) the claimant's liability to make payments in respect of that dwelling;
- but
- (b) subsections (1D)(a) and (1E)(a) above shall each have effect as if after “knows” there were inserted “or could reasonably be expected to know”.
- (1G) For the purposes of subsections (1A) to (1E) above a notification of a change is prompt if, and only if, it is given as soon as reasonably practicable after the change occurs.]
- ^{F56}(2)
- (3) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to imprisonment for a term not exceeding six months, or to a fine not exceeding the statutory maximum, or to both; or
- (b) on conviction on indictment, to imprisonment for a term not exceeding seven years, or to a fine, or to both.
- (4) In the application of this section to Scotland in [^{F57}subsections (1) to (1E)] for “dishonestly” substitute “knowingly”.]

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Textual Amendments

- F51** S. 111A inserted (1.7.1997) by [Social Security Administration \(Fraud\) Act 1997 \(c. 47\)](#), [ss. 13](#), [25\(1\)](#); [S.I. 1997/1577](#), [art. 2](#), [Sch.](#)
- F52** Word in s. 111A(1)(a) inserted (26.9.2001 for specified purposes, 18.10.2001 in so far as not already in force) by [Social Security Fraud Act 2001 \(c. 11\)](#), [ss. 16\(1\)\(a\)](#), [20\(1\)](#); [S.I. 2001/3251](#), [art. 2\(1\)](#)
- F53** S. 111A(1)(c)(d) repealed (26.9.2001 for specified purposes, 18.10.2001 in so far as not already in force) by [Social Security Fraud Act 2001 \(c. 11\)](#), [ss. 16\(1\)\(a\)](#), [20\(1\)](#), [Sch.](#); [S.I. 2001/3251](#), [art. 2\(1\)](#)
- F54** Word in s. 111A(1) inserted (2.4.2001) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), [s. 86](#), [Sch. 6 para. 5](#); [S.I. 2001/1252](#), [art. 2\(1\)\(a\)](#)
- F55** S. 111A(1A)-(1G) inserted (26.9.2001 for specified purposes, 18.10.2001 in so far as not already in force) by [Social Security Fraud Act 2001 \(c. 11\)](#), [ss. 16\(1\)\(b\)\(2\)](#), [20\(1\)](#); [S.I. 2001/3251](#), [art. 2\(1\)](#)
- F56** S. 111A(2) repealed (2.4.2001) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), [s. 86](#), [Sch. 9 Pt. VI](#); [S.I. 2001/1252](#), [art. 2\(1\)\(e\)](#)
- F57** Word in s. 111A(4) substituted (26.9.2001 for specified purposes, 18.10.2001 in so far as not already in force) by [Social Security Fraud Act 2001 \(c. 11\)](#), [ss. 16\(1\)\(c\)](#), [20\(1\)](#); [S.I. 2001/3251](#), [art. 2\(1\)](#)

112 False representations for obtaining benefit etc

- (1) If a person for the purpose of obtaining any benefit or other payment under the [^{F58}relevant][^{F59}social security legislation] whether for himself or some other person, or for any other purpose connected with that legislation—
- makes a statement or representation which he knows to be false; or
 - produces or furnishes or knowingly causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in a material particular,
- he shall be guilty of an offence.

[^{F60}(1A) A person shall be guilty of an offence if—

- there has been a change of circumstances affecting any entitlement of his to any benefit or other payment or advantage under any provision of the relevant social security legislation;
- the change is not a change that is excluded by regulations from the changes that are required to be notified;
- he knows that the change affects an entitlement of his to such a benefit or other payment or advantage; and
- he fails to give a prompt notification of that change in the prescribed manner to the prescribed person.

(1B) A person is guilty of an offence under this section if—

- there has been a change of circumstances affecting any entitlement of another person to any benefit or other payment or advantage under any provision of the relevant social security legislation;
- the change is not a change that is excluded by regulations from the changes that are required to be notified;
- he knows that the change affects an entitlement of that other person to such a benefit or other payment or advantage; and
- he causes or allows that other person to fail to give a prompt notification of that change in the prescribed manner to the prescribed person.

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- (1C) In a case where subsection (1C) of section 111A above applies, the recipient is guilty of an offence if—
 - (a) he knows that the change affects an entitlement of the claimant to a benefit or other payment or advantage under a provision of the relevant social security legislation;
 - (b) the entitlement is one in respect of which he has a right to receive payments to which the claimant has, or (but for the arrangements under which they are payable to the recipient) would have, an entitlement; and
 - (c) he fails to give a prompt notification of that change in the prescribed manner to the prescribed person.

- (1D) In a case where that subsection applies, a person other than the recipient is guilty of an offence if—
 - (a) he knows that the change affects an entitlement of the claimant to a benefit or other payment or advantage under a provision of the relevant social security legislation;
 - (b) the entitlement is one in respect of which the recipient has a right to receive payments to which the claimant has, or (but for the arrangements under which they are payable to the recipient) would have, an entitlement; and
 - (c) he causes or allows the recipient to fail to give a prompt notification of that change in the prescribed manner to the prescribed person.

- (1E) Subsection (1F) of section 111A above applies in relation to subsections (1C) and (1D) above as it applies in relation to subsections (1D) and (1E) of that section.

- (1F) For the purposes of subsections (1A) to (1D) above a notification of a change is prompt if, and only if, it is given as soon as reasonably practicable after the change occurs.]

- (2) A person guilty of an offence under [^{F61}this section] shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale, or to imprisonment for a term not exceeding 3 months, or to both.

^{F62}(3)

Textual Amendments

- F58** Word in s. 112(1) inserted (2.4.2001) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), s. 86, [Sch. 6 para. 6](#); S.I. 2001/1252, art. 2(1)(a)
- F59** Words in s. 112(1) substituted (1.7.1997) by [Social Security Administration \(Fraud\) Act 1997 \(c. 47\)](#), s. 25(1), [Sch. 1 para. 4\(2\)](#); S.I. 1997/1577, art. 2, Sch.
- F60** S. 112(1A)-(1F) substituted for s. 112(1A) (26.9.2001 for specified purposes, 18.10.2001 in so far as not already in force) by [Social Security Fraud Act 2001 \(c. 11\)](#), [ss. 16\(3\)](#), 20(1); S.I. 2001/3251, art. 2(1)
- F61** Words in s. 112(2) substituted (1.7.1997) by [Social Security Administration \(Fraud\) Act 1997 \(c. 47\)](#), s. 25(1), [Sch. 1 para. 4\(3\)](#); S.I. 1997/1577, art. 2, Sch.
- F62** S. 112(3) repealed (2.4.2001) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), s. 86, [Sch. 9 Pt. VI](#); S.I. 2001/1252, art. 2(1)(e)

Modifications etc. (not altering text)

- C2** S. 112 applied (with modifications) by [The Welfare Food Regulations 1996 \(S.I. 1996/1434\)](#), regs. 1, 22(1), [Sch. 6](#) (as amended (28.11.2005) by S.I. 2005/3262, regs. 1, 16(d)(i)(e)(ii))

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[^{F63}113 Breach of regulations

- (1) Regulations and schemes under any of the [^{F64}legislation to which this section applies] may provide that any person who contravenes, or fails to comply with, any provision contained in regulations made under [^{F64}that legislation]—
- (a) in the case of a provision relating to contributions, shall be liable to a penalty;
 - (b) in any other case, shall be guilty of an offence under [^{F64}any enactment contained in the legislation in question].

[^{F65}(1A) The legislation to which this section applies is—

- (a) the relevant social security legislation; and
 - (b) the enactments specified in section 121DA(1) so far as relating to contributions ^{F66}...]
- (2) Any regulations or scheme making such provision as is mentioned in subsection (1) (a) above shall—
- (a) prescribe the amount or rate of penalty, or provide for how it is to be ascertained;
 - (b) provide for the penalty to be imposed by the [^{F67}Inland Revenue]—
 - (i) within six years after the date on which the penalty is incurred; or
 - (ii) where the amount of the penalty is to be ascertained by reference to the amount of any contributions payable, at any later time within three years after the final determination of the amount of those contributions;
 - (c) provide for determining the date on which, for the purposes of paragraph (b) above, the penalty is incurred;
 - (d) prescribe the means by which the penalty is to be enforced; and
 - (e) provide for enabling the [^{F67}Inland Revenue], in [^{F67}their] discretion, to mitigate or to remit any such penalty, or to stay or to compound any proceedings for a penalty.
- (3) A person guilty of such an offence as is mentioned in subsection (1)(b) above shall be liable on summary conviction—
- (a) to a fine not exceeding level 3 on the standard scale;
 - (b) in the case of an offence of continuing a contravention or failure after conviction, to a fine not exceeding £40 for each day on which it is so continued.
- (4) Any provision contained in regulations which authorises statutory sick pay or statutory maternity pay to be set off against secondary Class 1 contributions is not a provision relating to contributions for the purposes of this section.]

Textual Amendments

- F63** S. 113 substituted (4.3.1999 for specified purposes, 6.4.1999 in so far as not already in force) by [Social Security Act 1998 \(c. 14\)](#), **ss. 60**, 87(2); S.I. 1999/526, art. 2(2)(d)
- F64** Words in s. 113(1) substituted (1.11.2000) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), s. 86, **Sch. 6 para. 7(1)**; S.I. 2000/2950, art. 2(d)(i)
- F65** S. 113(1A) inserted (1.11.2000) by [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), s. 86, **Sch. 6 para. 7(2)**; S.I. 2000/2950, art. 2(d)(i)
- F66** Words in s. 113(1A)(b) repealed (6.4.2005) by [National Insurance Contributions and Statutory Payments Act 2004 \(c. 3\)](#), **ss. 9(4)**, 13, **Sch. 2**; S.I. 2004/1943, arts. 4(c), 6(b)(ii)

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F67 Words in s. 113(2) substituted (6.4.1999) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(3\), Sch. 5 para. 5; S.I. 1999/527, art. 2\(c\), Sch. 3](#)

Modifications etc. (not altering text)

C3 S. 113 applied (with modifications) by [The Welfare Food Regulations 1996 \(S.I. 1996/1434\), regs. 1, 22\(1\), Sch. 6](#)

[^{F68} **113A Statutory sick pay and statutory maternity pay: breach of regulations**

- (1) Where a person fails to produce any document or record, or provide any information, in accordance with—
 - (a) regulations under section 5(1)(i) and (5), so far as relating to statutory sick pay or statutory maternity pay,
 - (b) regulations under section 130 or 132, or
 - (c) regulations under section 153(5)(b) of the Contributions and Benefits Act,
 that person is liable to the penalties mentioned in subsection (2).
- (2) The penalties are—
 - (a) a penalty not exceeding £300, and
 - (b) if the failure continues after a penalty is imposed under paragraph (a), a further penalty or penalties not exceeding £60 for each day on which the failure continues after the day on which the penalty under that paragraph was imposed (but excluding any day for which a penalty under this paragraph has already been imposed).
- (3) Where a person fails to maintain a record in accordance with regulations under section 130 or 132, he is liable to a penalty not exceeding £3,000.
- (4) No penalty may be imposed under subsection (1) at any time after the failure concerned has been remedied.
- (5) But subsection (4) does not apply to the imposition of a penalty under subsection (2)
 - (a) in respect of a failure to produce any document or record in accordance with regulations under section 130(5) or 132(4).
- (6) Where, in the case of any employee, an employer refuses or repeatedly fails to make payments of statutory sick pay or statutory maternity pay in accordance with any regulations under section 5, the employer is liable to a penalty not exceeding £3,000.
- (7) Section 118(2) of the Taxes Management Act 1970 (extra time for compliance etc) applies for the purposes of subsections (1), (3) and (6) as it applies for the purposes of that Act.
- (8) Schedule 1 to the Employment Act 2002 (penalties relating to statutory paternity pay and statutory adoption pay: procedures and appeals) applies in relation to penalties imposed under this section (with the modifications set out in subsection (9)).
- (9) That Schedule applies as if—
 - (a) references to a penalty under section 11 or 12 of that Act were to a penalty under this section,
 - (b) in paragraph 1(2), the reference to section 11(2)(a) of that Act were to subsection (2)(a) of this section, and

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- (c) the provisions of the Taxes Management Act 1970 having effect in relation to an appeal mentioned in paragraph 3(2) of that Schedule did not include section 50(9) of that Act.]

Textual Amendments

F68 Ss. 113A, 113B inserted (6.4.2005) by [National Insurance Contributions and Statutory Payments Act 2004 \(c. 3\)](#), [ss. 9\(5\), 13](#); [S.I. 2004/1943](#), [art. 4\(c\)](#)

[^{F68}113B Statutory sick pay and statutory maternity pay: fraud and negligence

- (1) Where a person fraudulently or negligently—
- makes any incorrect statement or declaration in connection with establishing entitlement to statutory sick pay or statutory maternity pay, or
 - produces any incorrect document or record or provides any incorrect information of a kind mentioned in—
 - regulations under section 5(1)(i) and (5), so far as relating to statutory sick pay or statutory maternity pay,
 - regulations under section 130 or 132, or
 - regulations under section 153(5)(b) of the Contributions and Benefits Act,he is liable to a penalty not exceeding £3,000.
- (2) Where an employer fraudulently or negligently makes an incorrect payment of statutory sick pay or statutory maternity pay, he is liable to a penalty not exceeding £3,000.
- (3) Where an employer fraudulently or negligently receives an overpayment in pursuance of regulations under section 167 of the Contributions and Benefits Act (statutory maternity pay: advance payments to employers), he is liable to a penalty not exceeding £3,000.
- (4) Schedule 1 to the Employment Act 2002 (penalties relating to statutory paternity pay and statutory adoption pay: procedures and appeals) applies in relation to penalties imposed under this section (with the modifications set out in subsection (5)).
- (5) That Schedule applies as if—
- references to a penalty under section 11 or 12 of that Act were to a penalty under this section, and
 - the provisions of the Taxes Management Act 1970 having effect in relation to an appeal mentioned in paragraph 3(2) of that Schedule did not include section 50(9) of that Act.]

Textual Amendments

F68 Ss. 113A, 113B inserted (6.4.2005) by [National Insurance Contributions and Statutory Payments Act 2004 \(c. 3\)](#), [ss. 9\(5\), 13](#); [S.I. 2004/1943](#), [art. 4\(c\)](#)

[^{F69}113C Health in pregnancy grant: civil penalty for fraud, etc.

Schedule 3A (health in pregnancy grant: civil penalty for fraud, etc.) has effect.]

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Textual Amendments

F69 S. 113C inserted (21.7.2008 for specified purposes, 1.1.2009 in so far as not already in force) by [Health and Social Care Act 2008 \(c. 14\)](#), **ss. 133(1)**, 170; S.I. 2008/3137, art. 2

[^{F70}114 Offences relating to contributions

- (1) Any person who is knowingly concerned in the fraudulent evasion of any contributions which he or any other person is liable to pay shall be guilty of an offence.
- (2) A person guilty of an offence under this section shall be liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding seven years or to a fine or to both;
 - (b) on summary conviction, to a fine not exceeding the statutory maximum.]

Textual Amendments

F70 Ss. 114, 114A substituted for s. 114 (4.3.1999 for specified purposes, 6.4.1999 for specified purposes) by [Social Security Act 1998 \(c. 14\)](#), **ss. 61**, 87(2); S.I. 1999/526, art. 2(2)(e)

^{F71}114A Penalties relating to contributions

.....

Textual Amendments

F71 S. 114A repealed (1.4.1999) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(3), Sch. 5 para. 6, **Sch. 10 Pt. 1**; S.I. 1999/527, art. 2(b), Sch. 2

115

- (1) Where an offence under this Act^{F72}, or under the Jobseekers Act 1995,] which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and be liable to be proceeded against accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) above applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Textual Amendments

F72 Words in s. 115(1) inserted (11.6.1996) by [Jobseekers Act 1995 \(c. 18\)](#), s. 41(2), **Sch. 2 para. 55**; S.I. 1996/1509, art. 2, **Sch.**

Modifications etc. (not altering text)

C4 S. 115 applied (with modifications) by [The Welfare Food Regulations 1996 \(S.I. 1996/1434\)](#), regs. 1, 22(1), **Sch. 6**

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[^{F73}115A Penalty as alternative to prosecution

(1) This section applies where an overpayment is recoverable from a person by, or due from a person to, the Secretary of State [^{F74}or an authority] under or by virtue of section 71, [^{F75}71ZB][^{F74}71A, 75 or 76] above and it appears to the Secretary of State [^{F74}or authority] that—

- (a) the making of the overpayment was attributable to an act or omission on the part of that person; and
- (b) there are grounds for instituting against him proceedings for an offence (under this Act or any other enactment) relating to the overpayment.

[This section also applies where —

- ^{F76}(1A) (a) it appears to the Secretary of State [^{F74}or an authority] that there are grounds for instituting proceedings against a person for an offence (under this Act or any other enactment) relating to an act or omission on the part of that person in relation to any benefit, and
- (b) if an overpayment attributable to the act or omission had been made, the overpayment would have been recoverable from the person by, or due from the person to, the Secretary of State [^{F74}or an authority] under or by virtue of section 71, 71ZB, [^{F74}71A, 75 or 76] above.]

(2) The Secretary of State [^{F77}or authority] may give the person a written notice—

- (a) stating that he may be invited to agree to pay a penalty and that, if he does so in the manner specified by the Secretary of State [^{F77}or authority], no [^{F78}proceedings referred to in subsection (1) or (1A) above] will be instituted against him; and
- (b) containing such information relating to the operation of this section as may be prescribed.

[^{F79}(3) The amount of the penalty in a case falling within subsection (1) is 50% of the amount of the overpayment (rounded down to the nearest whole penny), subject to—

- (a) a minimum amount of £350, and
- (b) a maximum amount of [^{F80}£5000].

(3A) The amount of the penalty in a case falling within subsection (1A) is £350.

(3B) The Secretary of State may by order amend—

- (a) the percentage for the time being specified in subsection (3);
- (b) any figure for the time being specified in subsection (3)(a) or (b) or (3A).]

(4) If the person agrees in the specified manner to pay the penalty—

- (a) the amount of the penalty shall be recoverable by the same methods as those by which the overpayment is [^{F81}or would have been] recoverable; and
- (b) no proceedings will be instituted against him for an offence (under this Act or any other enactment) relating to the overpayment [^{F82}or to the act or omission referred to in subsection (1A)(a)].

(5) The person may withdraw his agreement to pay the penalty by notifying the Secretary of State [^{F83}or authority] in the manner specified by the Secretary of State [^{F83}or authority], at any time during the period of [^{F84}14] days beginning with the day on which he agrees to pay it; and if he does so—

- (a) so much of the penalty as has already been recovered shall be repaid; and
- (b) subsection (4)(b) above shall not apply.

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- (6) ^{F85}In a case referred to in subsection (1)] where, after the person has agreed to pay the penalty, it is decided on a review or appeal or in accordance with regulations that the overpayment is not recoverable or due so much of the penalty as has already been recovered shall be repaid.
- (7) ^{F85}In a case referred to in subsection (1)] where, after the person has agreed to pay the penalty, the amount of the overpayment is revised on a review or appeal or in accordance with regulations—
- (a) so much of the penalty as has already been recovered shall be repaid; and
 - (b) subsection (4)(b) above shall no longer apply by reason of the agreement; but if a new agreement is made under this section in relation to the revised overpayment, the amount already recovered by way of penalty, to the extent that it does not exceed the amount of the new penalty, may be treated as recovered under the new agreement instead of being repaid.
- [^{F87}Subject to subsection (7B) below, the Secretary of State and an authority which
- ^{F86}(7A) administers housing benefit or council tax benefit may agree that, to the extent determined by the agreement, one may carry out on the other's behalf, or may join in the carrying out of, any of the other's functions under this section.]
- (7B) ^{F87}Subsection (7A) above shall not authorise any delegation of—
- (a) the function of the person by whom any overpayment is ^{F88}or would have been] recoverable, or to whom it is ^{F88}or would have been] due, of determining whether or not a notice should be given under subsection (2) above in respect of that overpayment; or
 - (b) the Secretary of State's power to make regulations for the purposes of paragraph (b) of that subsection.]]
- (8) In this section “overpayment” means—
- (a) a payment which should not have been made;
 - (b) a sum which the Secretary of State should have received;
 - (c) an amount of benefit paid in excess of entitlement; or
 - (d) an amount equal to an excess of benefit allowed;
- and the reference in subsection (1)(a) ^{F89}or (1A)(b)] above to the making of the overpayment is to the making of the payment, the failure to receive the sum, the payment of benefit in excess of entitlement or the allowing of an excess of benefit.]

Textual Amendments

- F73** S. 115A inserted (21.11.1997 for specified purposes, 18.12.1997 for all other purposes) by [Social Security Administration \(Fraud\) Act 1997 \(c. 47\)](#), **ss. 15, 25(1)** (with s. 25(7)); S.I. 1997/2766, art. 2(1)
- F74** Words in s. 115A(1)(1A) repealed (1.4.2013 in so far as relate to the abolition of council tax benefit) by [Welfare Reform Act 2012 \(c. 5\)](#), s. 150(3), **Sch. 14 Pt. 1**; S.I. 2013/358, art. 8(c), **Sch. 4** (with arts. 9, 10, **Sch. 5**)
- F75** Word in s. 115A(1) inserted (29.4.2013) by [Welfare Reform Act 2012 \(c. 5\)](#), **ss. 105(3), 150(3)**; S.I. 2013/358, art. 5(2)(3)(b)
- F76** S. 115A(1A) inserted (8.5.2012) by [Welfare Reform Act 2012 \(c. 5\)](#), **ss. 113(2), 150(3)**; S.I. 2012/863, art. 2(3)(a)
- F77** Words in s. 115A(2) repealed (1.4.2013 in so far as relate to the abolition of council tax benefit) by [Welfare Reform Act 2012 \(c. 5\)](#), s. 150(3), **Sch. 14 Pt. 1**; S.I. 2013/358, art. 8(c), **Sch. 4** (with arts. 9, 10, **Sch. 5**)

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- F78** Words in s. 115A(2)(a) substituted (8.5.2012) by [Welfare Reform Act 2012 \(c. 5\), ss. 113\(3\), 150\(3\); S.I. 2012/863, art. 2\(3\)\(a\)](#)
- F79** S. 115A(3)-(3B) substituted for s. 115A(3) (8.5.2012) by [Welfare Reform Act 2012 \(c. 5\), ss. 114\(1\), 150\(3\); S.I. 2012/863, art. 2\(3\)\(b\)](#)
- F80** Sum in s. 115A(3)(b) substituted (with effect only in relation to an act or omission referred to s. 115A(1)(a) which appears, to the Secretary of State or the authority mentioned in that subsection, to have occurred wholly on or after 1.4.2015) by [The Social Security \(Penalty as Alternative to Prosecution\) \(Maximum Amount\) Order 2015 \(S.I. 2015/202\), arts. 1\(1\), 2 \(with art. 1\(3\)\)](#)
- F81** Words in s. 115A(4)(a) inserted (8.5.2012) by [Welfare Reform Act 2012 \(c. 5\), ss. 113\(4\)\(a\), 150\(3\); S.I. 2012/863, art. 2\(3\)\(a\)](#)
- F82** Words in s. 115A(4)(b) inserted (8.5.2012) by [Welfare Reform Act 2012 \(c. 5\), ss. 113\(4\)\(b\), 150\(3\); S.I. 2012/863, art. 2\(3\)\(a\)](#)
- F83** Words in s. 115A(5) repealed (1.4.2013 in so far as relate to the abolition of council tax benefit) by [Welfare Reform Act 2012 \(c. 5\), s. 150\(3\), Sch. 14 Pt. 1; S.I. 2013/358, art. 8\(c\), Sch. 4 \(with arts. 9, 10, Sch. 5\)](#)
- F84** Figure in s. 115A(5) substituted (8.5.2012) by [Welfare Reform Act 2012 \(c. 5\), ss. 115\(2\), 150\(3\); S.I. 2012/863, art. 2\(3\)\(c\)](#)
- F85** Words in s. 115A(6)(7) inserted (8.5.2012) by [Welfare Reform Act 2012 \(c. 5\), ss. 113\(5\), 150\(3\); S.I. 2012/863, art. 2\(3\)\(a\)](#)
- F86** S. 115A(7A)(7B) inserted (30.4.2002) by [Social Security Fraud Act 2001 \(c. 11\), ss. 14, 20\(1\); S.I. 2002/1222, art. 2\(e\)](#)
- F87** S. 115A(7A)(7B) repealed (1.4.2013 in so far as relate to the abolition of council tax benefit) by [Welfare Reform Act 2012 \(c. 5\), s. 150\(3\), Sch. 14 Pt. 1; S.I. 2013/358, art. 8\(c\), Sch. 4 \(with arts. 9, 10, Sch. 5\)](#)
- F88** Words in s. 115A(7B)(a) inserted (8.5.2012) by [Welfare Reform Act 2012 \(c. 5\), ss. 113\(6\), 150\(3\); S.I. 2012/863, art. 2\(3\)\(a\)](#)
- F89** Words in s. 115A(8) inserted (8.5.2012) by [Welfare Reform Act 2012 \(c. 5\), ss. 113\(7\), 150\(3\); S.I. 2012/863, art. 2\(3\)\(a\)](#)

[^{F90}115B Penalty as alternative to prosecution: colluding employers etc

- (1) This section applies where it appears to the Secretary of State [^{F91}or an authority that administers housing benefit or council tax benefit]—
- (a) that there are grounds for instituting proceedings against any person ('the responsible person') for an offence (whether or not under this Act) in respect of any conduct; and
 - (b) that the conduct in respect of which there are grounds for instituting the proceedings is conduct falling within subsection (2) below.
- (2) Conduct in respect of which there appear to be grounds for instituting proceedings falls within this subsection if—
- (a) those proceedings would be for an offence under this Act in connection with an inquiry relating to the employment of relevant employees or of any one or more particular relevant employees; or
 - (b) it is conduct which was such as to facilitate the commission of a benefit offence by a relevant employee (whether or not such an offence was in fact committed).
- (3) The Secretary of State [^{F92}or authority] may give to the responsible person a written notice—
- (a) specifying or describing the conduct in question;

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- (b) stating that he may be invited to agree to pay a penalty in respect of that conduct;
 - (c) stating that, if he does so in the manner specified by the Secretary of State [^{F92}or authority], no criminal proceedings will be instituted against him in respect of that conduct; and
 - (d) containing such information relating to the operation of this section as may be prescribed.
- [^{F93}(4) If the recipient of a notice under subsection (3) above agrees, in the specified manner, to pay the penalty—
- (a) the amount of the penalty shall be recoverable from the recipient by the Secretary of State [^{F94}or authority]; and
 - (b) no criminal proceedings shall be instituted against the recipient in respect of the conduct to which the notice relates.
- (4A) Sections 71ZC, 71ZD and 71ZE above apply in relation to amounts recoverable under subsection (4)(a) above as to amounts recoverable by the Secretary of State under section 71ZB above [^{F95}(and, where the notice is given by an authority administering housing benefit or council tax benefit, those sections so apply as if references to the Secretary of State were to that authority)].
- (5) The amount of the penalty shall be—
- (a) in a case in which the conduct in question falls within paragraph (a) of subsection (2) above but not within paragraph (b) of that subsection, £1,000;
 - (b) in a case in which that conduct falls within paragraph (b) of that subsection and the number of relevant employees by reference to whom it falls within that subsection is five or more, £5,000; and
 - (c) in any other case, the amount obtained by multiplying £1,000 by the number of relevant employees by reference to whom that conduct falls within that subsection.
- (6) The responsible person may withdraw his agreement to pay a penalty under this section by notifying the Secretary of State [^{F96}or authority], in the manner specified by the Secretary of State [^{F96}or authority], at any time during the period of [^{F97}14] days beginning with the day on which he agrees to pay it.
- (7) Where the responsible person withdraws his agreement in accordance with subsection (6) above—
- (a) so much of the penalty as has already been recovered shall be repaid; and
 - (b) subsection (4)(b) above shall not apply.
- (8) For the purposes of this section an individual is a relevant employee in relation to any conduct of the responsible person if—
- (a) that conduct was at or in relation to a time when that individual was an employee of the responsible person;
 - (b) that conduct was at or in relation to a time when that individual was an employee of a body corporate of which the responsible person is or has been a director; or
 - (c) the responsible person, in engaging in that conduct, was acting or purporting to act on behalf of, in the interests of or otherwise by reason of his connection with, any person by whom that individual is or has been employed.
- (9) In this section—

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“conduct” includes acts, omissions and statements;

“director”—

- (a) in relation to a company (^{F98}as defined in section 1(1) of the Companies Act 2006]), includes a shadow director;
- (b) in relation to any such company that is a subsidiary of another, includes any director or shadow director of the other company; and
- (c) in relation to a body corporate whose affairs are managed by its members, means a member of that body corporate;

“employee” means any person who—

- (a) is employed under a contract of service or apprenticeship, or in an office (including an elective office), or
- (b) carries out any work under any contract under which he has undertaken to provide his work, and “employment” shall be construed accordingly;

^{F99}

“shadow director” means a shadow director as defined in ^{F100}section 251 of the Companies Act 2006];

“subsidiary” means a subsidiary as defined in ^{F101}section 1159 of the Companies Act 2006].]

Textual Amendments

- F90** S. 115B inserted (30.4.2002) by Social Security Fraud Act 2001 (c. 11), **ss. 15(1)**, 20(1); S.I. 2002/1222, art. 2(f)
- F91** Words in s. 115B(1) repealed (1.4.2013 in so far as relate to the abolition of council tax benefit) by Welfare Reform Act 2012 (c. 5), s. 150(3), **Sch. 14 Pt. 1**; S.I. 2013/358, art. 8(c), Sch. 4 (with arts. 9, 10, Sch. 5)
- F92** Words in s. 115B(3) repealed (1.4.2013 in so far as relate to the abolition of council tax benefit) by Welfare Reform Act 2012 (c. 5), s. 150(3), **Sch. 14 Pt. 1**; S.I. 2013/358, art. 8(c), Sch. 4 (with arts. 9, 10, Sch. 5)
- F93** S. 115B(4)(4A) substituted for s. 115B(4) (1.10.2012) by Welfare Reform Act 2012 (c. 5), **ss. 105(4)(a)**, 150(3); S.I. 2012/1246, art. 2(5)(b)
- F94** Words in s. 115B(4)(a) repealed (1.4.2013 in so far as relate to the abolition of council tax benefit) by Welfare Reform Act 2012 (c. 5), s. 150(3), **Sch. 14 Pt. 1**; S.I. 2013/358, art. 8(c), Sch. 4 (with arts. 9, 10, Sch. 5)
- F95** Words in s. 115B(4A) repealed (1.4.2013 in so far as relate to the abolition of council tax benefit) by Welfare Reform Act 2012 (c. 5), s. 150(3), **Sch. 14 Pt. 1**; S.I. 2013/358, art. 8(c), Sch. 4 (with arts. 9, 10, Sch. 5)
- F96** Words in s. 115B(6) repealed (1.4.2013 in so far as relate to the abolition of council tax benefit) by Welfare Reform Act 2012 (c. 5), s. 150(3), **Sch. 14 Pt. 1**; S.I. 2013/358, art. 8(c), Sch. 4 (with arts. 9, 10, Sch. 5)
- F97** Figure in s. 115B(6) substituted (8.5.2012) by Welfare Reform Act 2012 (c. 5), **ss. 115(3)**, 150(3); S.I. 2012/863, art. 2(3)(c)
- F98** Words in s. 115B(9) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 1(2), **Sch. 1 para. 129(a)** (with art. 10)
- F99** Words in s. 115B(9) repealed (1.10.2012) by Welfare Reform Act 2012 (c. 5), **ss. 105(4)(b)**, 150(3); S.I. 2012/1246, art. 2(5)(b)
- F100** Words in s. 115B(9) substituted (1.10.2007) by The Companies Act 2006 (Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings) Order 2007 (S.I. 2007/2194), art. 1(3)(a), **Sch. 4 para. 68** (with art. 12)

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F101 Words in s. 115B(9) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 129(b)** (with art. 10)

f^{F102} Civil penalties

Textual Amendments

F102 Ss. 115C, 115D and cross-heading inserted (10.5.2012 for specified purposes, 1.10.2012 in so far as not already in force) by [Welfare Reform Act 2012 \(c. 5\)](#), **ss. 116(1), 150(3)**; S.I. 2012/1246, art. 2(1)(a)(5)(c)

115C Incorrect statements etc

- (1) This section applies where—
 - (a) a person negligently makes an incorrect statement or representation, or negligently gives incorrect information or evidence—
 - (i) in or in connection with a claim for a relevant social security benefit, or
 - (ii) in connection with an award of a relevant social security benefit,
 - (b) the person fails to take reasonable steps to correct the error,
 - (c) the error results in the making of an overpayment, and
 - (d) the person has not been charged with an offence or cautioned, or been given a notice under section 115A, in respect of the overpayment.
- (2) A penalty of a prescribed amount may be imposed by the appropriate authority—
 - (a) in any case, on the person;
 - (b) in a case where the person (“A”) is making, or has made, a claim for the benefit for a period jointly with another (“B”), on B instead of A.
- (3) Subsection (2)(b) does not apply if B was not, and could not reasonably be expected to have been, aware that A had negligently made the incorrect statement or representation or given the incorrect information or evidence.
- (4) A penalty imposed under subsection (2) is recoverable by the appropriate authority from the person on whom it is imposed.
- (5) Sections 71ZC, 71ZD and 71ZE apply in relation to amounts recoverable by the appropriate authority under subsection (4) as to amounts recoverable by the Secretary of State under section 71ZB (and, where the appropriate authority is not the Secretary of State, those sections so apply as if references to the Secretary of State were to that authority).
- (6) In this section and section 115D—

“appropriate authority” means—

 - (a) the Secretary of State, or
 - (b) an authority which administers housing benefit or council tax benefit;

“overpayment” has the meaning given in section 115A(8), and the reference to the making of an overpayment is to be construed in accordance with that provision;

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“relevant social security benefit” has the meaning given in section 121DA(7).

115D Failure to disclose information

- (1) A penalty of a prescribed amount may be imposed on a person by the appropriate authority where—
 - (a) the person, without reasonable excuse, fails to provide information or evidence in accordance with requirements imposed on the person by the appropriate authority in connection with a claim for, or an award of, a relevant social security benefit,
 - (b) the failure results in the making of an overpayment, and
 - (c) the person has not been charged with an offence or cautioned, or been given a notice under section 115A, in respect of the overpayment.
- (2) A penalty of a prescribed amount may be imposed on a person by the appropriate authority where—
 - (a) the person, without reasonable excuse, fails to notify the appropriate authority of a relevant change of circumstances in accordance with requirements imposed on the person under relevant social security legislation,
 - (b) the failure results in the making of an overpayment, and
 - (c) the person has not been charged with an offence or cautioned, or been given a notice under section 115A, in respect of the overpayment.
- (3) Where a person is making, or has made, a claim for a benefit for a period jointly with another, and both of them fail as mentioned in subsection (1) or (2), only one penalty may be imposed in respect of the same overpayment.
- (4) A penalty imposed under subsection (1) or (2) is recoverable by the appropriate authority from the person on whom it is imposed.
- (5) Sections 71ZC, 71ZD and 71ZE apply in relation to amounts recoverable by the appropriate authority under subsection (4) as to amounts recoverable by the Secretary of State under section 71ZB (and, where the appropriate authority is not the Secretary of State, those sections so apply as if references to the Secretary of State were to that authority).
- (6) In this section “relevant change of circumstances”, in relation to a person, means a change of circumstances which affects any entitlement of the person to any benefit or other payment or advantage under any provision of the relevant social security legislation.]

Legal proceedings

116 Legal proceedings

- (1) Any person authorised by the Secretary of State in that behalf may conduct any proceedings [F103 under any provision of this Act other than section 114 or under any provision of] [F104 the Jobseekers Act 1995] before a magistrates' court although not a barrister or solicitor.
- (2) Notwithstanding anything in any Act—

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- (a) proceedings for an offence under this Act [F105[F106 (other than proceedings to which paragraph (b) applies)]] [F107], or for an offence under the Jobseekers Act 1995,] may be begun at any time within the period of 3 months from the date on which evidence, sufficient in the opinion of the Secretary of State to justify a prosecution for the offence, comes to his knowledge or within a period of 12 months from the commission of the offence, whichever period last expires; [F108 and]
- (b) [F108] proceedings [F109] brought by the appropriate authority] for an offence under this Act relating to housing benefit or [F110] council tax benefit] may be begun at any time within the period of 3 months from the date on which evidence, sufficient in the opinion of the appropriate authority to justify a prosecution for the offence, comes to the authority's knowledge or within a period of 12 months from the commission of the offence, whichever period last expires.]

[F111] (2A) Subsection (2) above shall not be taken to impose any restriction on the time when proceedings may be begun for an offence under section 111A above.]

- (3) For the purposes of subsection (2) above—
 - (a) a certificate purporting to be signed by or on behalf of the Secretary of State as to the date on which such evidence as is mentioned in paragraph (a) of that subsection came to his knowledge shall be conclusive evidence of that date; [F112 and]
 - (b) [F112] a certificate of the appropriate authority as to the date on which such evidence as is mentioned in paragraph (b) of that subsection came to the authority's knowledge shall be conclusive evidence of that date.]

(4) [F113] In subsections (2) and (3) above “the appropriate authority” means, in relation to an offence which relates to housing benefit and concerns any dwelling

- [F114] (a)
- (b) if it relates to a rent rebate, the authority who are the appropriate housing authority by virtue of [F115] section 134 below]; and
- (c) if it relates to rent allowance, the authority who are the appropriate local authority by virtue of [F116] that section].]

(5) [F113] In subsection (2) and (3) above “the appropriate authority” means, in relation to an offence relating to [F117] council tax benefit], such authority as is prescribed in relation to the offence.]

[F118] (5A) [F119] In relation to proceedings for an offence under section 114 above], the references in subsections (2)(a) and (3)(a) to the Secretary of State shall have effect as references to the Inland Revenue.]

[F120] (6)

(7) In the application of this section to Scotland, the following provisions shall have effect in substitution for subsections (1) [F121] to (5A)] above—

- (a) proceedings for an offence under this Act [F122] or the Jobseekers Act 1995] may, notwithstanding anything in [F123] section 136 of the Criminal Procedure (Scotland) Act 1995], be commenced at any time within the period of 3 months from the date of which evidence, sufficient in the opinion of the Lord Advocate to justify proceedings, comes to his knowledge, or within the period of 12 months from the commission of the offence, whichever period last expires;

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- [^{F124}(aa) this subsection shall not be taken to impose any restriction on the time when proceedings may be commenced for an offence under section 111A above;]
- (b) for the purposes of this subsection—
- (i) a certificate purporting to be signed by or on behalf of the Lord Advocate as to the date on which such evidence as is mentioned above came to his knowledge shall be conclusive evidence of that date; and
 - (ii) subsection (3) of [^{F125}section 136 of the said Act of 1995] (date of commencement of proceedings) shall have effect as it has effect for the purposes of that section.

Textual Amendments

- F103** Words in s. 116(1) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 21\(2\)](#); S.I. 1999/527, art. 2(b), Sch. 2
- F104** Words in s. 116(1) substituted (11.6.1996) by [Jobseekers Act 1995 \(c. 18\), s. 41\(2\), Sch. 2 para. 56\(2\)](#); S.I. 1996/1509, art. 2, Sch.
- F105** Words in s. 116(2)(a) substituted (8.5.2012) by [Welfare Reform Act 2012 \(c. 5\), ss. 111\(a\), 150\(2\)\(e\)](#)
- F106** Words in s. 116(2)(a) repealed (1.4.2013 in so far as relate to the abolition of council tax benefit) by [Welfare Reform Act 2012 \(c. 5\), s. 150\(3\), Sch. 14 Pt. 1](#); S.I. 2013/358, art. 8(c), Sch. 4 (with arts. 9, 10, Sch. 5)
- F107** Words in s. 116(2)(a) substituted (11.6.1996) by [Jobseekers Act 1995 \(c. 18\), s. 41\(2\), Sch. 2 para. 56\(3\)](#); S.I. 1996/1509, art. 2, Sch.
- F108** S. 116(2)(b) and preceding word repealed (1.4.2013 in so far as relate to the abolition of council tax benefit) by [Welfare Reform Act 2012 \(c. 5\), s. 150\(3\), Sch. 14 Pt. 1](#); S.I. 2013/358, art. 8(c), Sch. 4 (with arts. 9, 10, Sch. 5)
- F109** Words in s. 116(2)(b) inserted (8.5.2012) by [Welfare Reform Act 2012 \(c. 5\), ss. 111\(b\), 150\(2\)\(e\)](#)
- F110** Words in s. 116(2) substituted (1.4.1993) by [Local Government Finance Act 1992 \(c. 14\), s. 118\(4\), Sch. 9 para. 17\(1\)](#)
- F111** S. 116(2A) inserted (1.7.1997) by [Social Security Administration \(Fraud\) Act 1997 \(c. 47\), s. 25\(1\), Sch. 1 para. 5](#); S.I. 1997/1577, art. 2, Sch.
- F112** S. 116(3)(b) and preceding word repealed (1.4.2013 in so far as relate to the abolition of council tax benefit) by [Welfare Reform Act 2012 \(c. 5\), s. 150\(3\), Sch. 14 Pt. 1](#); S.I. 2013/358, art. 8(c), Sch. 4 (with arts. 9, 10, Sch. 5)
- F113** S. 116(4)(5) repealed (1.4.2013 in so far as relate to the abolition of council tax benefit) by [Welfare Reform Act 2012 \(c. 5\), s. 150\(3\), Sch. 14 Pt. 1](#); S.I. 2013/358, art. 8(c), Sch. 4 (with arts. 9, 10, Sch. 5)
- F114** S. 116(4)(a) omitted (1.4.1997) by virtue of [Housing Act 1996 \(c. 52\), s. 232\(3\), Sch. 13 para. 3\(3\)\(a\)](#); S.I. 1997/618, art. 2(1) (with Sch.)
- F115** Words in s. 116(4)(b) substituted (1.4.1997) by [Housing Act 1996 \(c. 52\), s. 232\(3\), Sch. 13 para. 3\(3\)\(b\)](#); S.I. 1997/618, art. 2(1) (with Sch.)
- F116** Words in s. 116(4)(c) substituted (1.4.1997) by [Housing Act 1996 \(c. 52\), s. 232\(3\), Sch. 13 para. 3\(3\)\(c\)](#); S.I. 1997/618, art. 2(1) (with Sch.)
- F117** Words in s. 116(5) substituted (1.4.1993) by [Local Government Finance Act 1992 \(c. 14\), s. 118\(4\), Sch. 9 para. 17\(2\)](#)
- F118** S. 116(5A) inserted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 21\(3\)](#); S.I. 1999/527, art. 2(b), Sch. 2
- F119** Words in s. 116(5A) substituted (11.11.99) by [Welfare Reform and Pensions Act 1999 \(c. 30\), s. 89\(4\)\(d\), Sch. 11 para. 5](#).
- F120** S. 116(6) repealed (29.11.99) by [Social Security Act 1998 \(c. 14\), s. 87\(2\), Sch. 7 para. 83, Sch. 8](#); S.I. 1999/3178, art. 2(1), Sch. 1

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- F121** Words in s. 116(7) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 21(4)**; S.I. 1999/527, art. 2(b), Sch. 2
- F122** Words in s. 116(7)(a) inserted (11.6.1996) by Jobseekers Act 1995 (c. 18), s. 41(2), **Sch. 2 para. 56(4)**; S.I. 1996/1509, art. 2, Sch.
- F123** Words in s. 116(7)(a) substituted (1.4.1996) by Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c. 40), s. 7(2), **Sch. 4 para. 82(a)**
- F124** S. 116(7)(aa) inserted (30.4.2002) by Social Security Fraud Act 2001 (c. 11), **ss. 17, 20(1)**; S.I. 2002/1222, art. 2(g)
- F125** Words in s. 116(7)(b) substituted (1.4.1996) by Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c. 40), s. 7(2), **Sch. 4 para. 82(b)**

Modifications etc. (not altering text)

- C5** S. 116 applied (7.2.1994) by Pension Schemes Act 1993 (c. 48), **s. 167(1)(2)**, 193(2); S.I. 1994/86, art. 2
- C6** S. 116 applied in part (with modifications) by The Welfare Food Regulations 1996 (S.I. 1996/1434), regs. 1, 22(1), **Sch. 6**

[^{F126}116A] Local authority powers to prosecute benefit fraud

- [^{F127}(1)]** This section applies if an authority administering housing benefit or council tax benefit has power to bring proceedings for a benefit offence relating to that benefit.
- (2) The authority may bring proceedings for a benefit offence relating to any other relevant social security benefit unless—
- (a) the proceedings relate to any benefit or circumstances or any description of benefit or circumstances which the Secretary of State prescribes for the purposes of this paragraph, or
 - (b) the Secretary of State has directed that the authority must not bring the proceedings,
- and a direction under paragraph (b) may relate to a particular authority or description of authority or to particular proceedings or any description of proceedings.
- (3) If the Secretary of State prescribes conditions for the purposes of this section, an authority must not bring proceedings under this section unless any such condition is satisfied.
- (4) The Secretary of State may continue proceedings which have been brought by an authority under this section as if the proceedings had been brought in his name or he may discontinue the proceedings if—
- (a) he makes provision under subsection (2)(a), such that the authority would no longer be entitled to bring the proceedings under this section,
 - (b) he gives a direction under subsection (2)(b) in relation to the proceedings, or
 - (c) a condition prescribed under subsection (3) ceases to be satisfied in relation to the proceedings.
- (5) In the exercise of its power under subsection (2), a local authority must have regard to the Code for Crown Prosecutors issued by the Director of Public Prosecutions under section 10 of the Prosecution of Offences Act 1985—
- (a) in determining whether the proceedings should be instituted;
 - (b) in determining what charges should be preferred;

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- (c) in considering what representations to make to a magistrates' court about mode of trial;
 - (d) in determining whether to discontinue proceedings.
- (6) An authority must not bring proceedings for a benefit offence which does not relate to housing benefit or council tax benefit otherwise than in accordance with this section.
- (7) In subsection (2), “relevant social security benefit” has the same meaning as in section 121DA below.
- (8) This section does not apply to Scotland.]]

Textual Amendments

- F126** S. 116A inserted (19.2.2008 for specified purposes, 7.4.2008 in so far as not already in force) by [Welfare Reform Act 2007 \(c. 5\), ss. 47, 70\(2\)](#); S.I. 2008/411, art. 2(4)(b)(5)
- F127** S. 116A repealed (1.4.2013 in so far as relates to the abolition of council tax benefit) by [Welfare Reform Act 2012 \(c. 5\), s. 150\(3\), Sch. 14 Pt. 1](#); S.I. 2013/358, art. 8(c), Sch. 4 (with arts. 9, 10, Sch. 5)

[^{F128} 117 Issues arising in proceedings

- (1) This section applies to proceedings before a court—
- (a) for an offence under this Act or the Jobseekers Act 1995; or
 - (b) involving any question as to the payment of contributions (other than a Class 4 contribution recoverable by the Inland Revenue); or
 - (c) for the recovery of any sums due to the Secretary of State^[F129], the Inland Revenue] or the National Insurance Fund,
- (2) A decision of the Secretary of State which—
- (a) falls within Part II of Schedule 3 to the Social Security Act 1998 (“the 1998 Act”; and
 - (b) relates to or affects an issue arising in the proceedings,
- shall be conclusive for the purposes of the proceedings.
- (3) If—
- (a) any such decision is necessary for the determination of the proceedings; and
 - (b) the decision of the Secretary of State has not been obtained or an application with respect to the decision has been made under section 9 or 10 of the 1998 Act,
- the decision shall be referred to the Secretary of State to be made in accordance (subject to any necessary modifications) with Chapter II of Part I of that Act.
- (4) Subsection (2) above does not apply where, in relation to the decision—
- (a) an appeal has been brought but not determined;
 - (b) an application for leave to appeal has been made but not determined;
 - (c) an appeal has not been brought (or, as the case may be, an application for leave to appeal has not been made) but the time for doing so has not yet expired; or
 - (d) an application has been made under section 9 or 10 of the 1998 Act.

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- (5) In a case falling within subsection (4) above the court shall adjourn the proceedings until such time as the final decision is known; and that decision shall be conclusive for the purposes of the proceedings.]

Textual Amendments

F128 S. 117 substituted (5.7.1999) by [Social Security Act 1998 \(c. 14\), Sch. 7 para. 84](#)

F129 Words in s. 117(1)(c) inserted (5.7.1999) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(3\), Sch. 7 para. 12](#); S.I. 1999/1662, art. 2(b), Sch. Pt. II

Modifications etc. (not altering text)

C7 S. 117 modified (temp.) (1.4.1999) by [The Social Security Contributions, etc. \(Decisions and Appeals —Transitional Modifications\) Regulations 1999 \(S.I. 1999/978\), regs. 1, 2, Sch.](#)

[^{F130}117A] **Issues arising in proceedings: contributions, etc**

- (1) This section applies to proceedings before a court—
- (a) for an offence under this Act or the Jobseekers Act 1995; or
 - (b) involving any question as to the payment of contributions (other than a Class 4 contribution recoverable in accordance with section 15 of the Contributions and Benefits Act); or
 - (c) for the recovery of any sums due to the Inland Revenue or the National Insurance Fund.
- (2) A decision of an officer of the Inland Revenue which—
- (a) falls within section 8(1) of the Social Security Contributions (Transfer of Functions, etc.) Act 1999; and
 - (b) relates to or affects an issue arising in the proceedings, shall be conclusive for the purposes of the proceedings.
- (3) If—
- (a) any such decision is necessary for the determination of the proceedings, and
 - (b) the decision of an officer of the Inland Revenue has not been obtained under section 8 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999,
- the decision shall be referred to such an officer to be made in accordance (subject to any necessary modifications) with Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999.
- (4) Subsection (2) above does not apply where, in relation to the decision—
- (a) an appeal has been brought but not determined;
 - (b) an appeal has not been brought (or, as the case may be, an application for leave to appeal has not been made) but the time for doing so has not yet expired; or
 - (c) an application for variation of the decision has been made under regulations made under section 10 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999.
- (5) In a case falling within subsection (4) above the court shall adjourn the proceedings until such time as the final decision is known; and that decision shall be conclusive for the purposes of the proceedings.]

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Textual Amendments

F130 S. 117A inserted (1.4.1999) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(3\), Sch. 7 para. 13](#); S.I. 1999/527, art. 2(b), Sch. 2

Unpaid contributions etc

118 Evidence of non-payment

^{F131}(1)

^{F132}(1A)

^{F132}(2)

^{F133}(3)

(4) A statutory declaration by an officer of the [^{F134}Inland Revenue] that the searches specified in the declaration ^{F135}... for a record of the payment of a particular contribution have been made, and that ^{F135}... a record of the payment of the contribution in question has not been found, is admissible in any proceedings for an offence as evidence of the facts stated in the declaration.

(5) Nothing in subsection (4) above makes a statutory declaration admissible as evidence in proceedings for an offence except in a case where, and to the extent to which, oral evidence to the like effect would have been admissible in those proceedings.

(6) Nothing in subsections (4) and (5) above makes a statutory declaration admissible as evidence in proceedings for an offence—

(a) unless a copy of it has, not less than 7 days before the hearing or trial, been served on the person charged with the offence in any manner in which a summons or, in Scotland, a citation in a summary prosecution may be served;
or

(b) if that person, not later than 3 days before the hearing or trial or within such further time as the court may in special circumstances allow, gives notice to the prosecutor requiring the attendance at the trial of the person by whom the declaration was made.

^{F136}(7)

Textual Amendments

F131 S. 118(1) omitted (21.7.2008) by virtue of [Finance Act 2008 \(c. 9\), Sch. 44 para. 4](#)

F132 S. 118(1A)(2) repealed (6.4.1999) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(3\), Sch. 5 para. 7\(3\), Sch. 10 Pt. I](#); S.I. 1999/527, art. 2(c), Sch. 3

F133 S. 118(3) omitted (21.7.2008) by virtue of [Finance Act 2008 \(c. 9\), Sch. 44 para. 4](#)

F134 Words in s. 118(4) substituted (6.4.1999) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(3\), Sch. 5 para. 7\(5\)](#); S.I. 1999/527, art. 2(c), Sch. 3

F135 Words in s. 118(4) repealed (6.4.1999) by [Social Security Act 1998 \(c. 14\), ss 62\(3\), 87\(2\), Sch. 8](#); S.I. 1999/526, art. 2(4)(a)(c)(i)

F136 S. 118(7) omitted (21.7.2008) by virtue of [Finance Act 2008 \(c. 9\), Sch. 44 para. 4](#)

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119 Recovery of unpaid contributions on prosecution

(1) Where—

(a) a person has been convicted of any offence under section 114(1) above of failing to pay a contribution at or within the time prescribed for the purpose; and

(b) the contribution remains unpaid at the date of the conviction,

he shall be liable to pay to the [^{F137}Inland Revenue] a sum equal to the amount which he failed to pay.

^{F138}(2)

Textual Amendments

F137 Words in s. 119(1) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\), s. 28\(2\)\(a\), Sch. 1 para. 22](#); S.I. 1999/527, art. 2(b), Sch. 2

F138 S. 119(2) repealed (6.4.1999) by [Social Security Act 1998 \(c. 14\), s. 87\(2\), Sch. 7 para. 85, Sch. 8](#); S.I. 1999/526, art. 2(3)(4)(b)

120 Proof of previous offences

(1) Subject to and in accordance with subsections (2) to (5) below, where a person is convicted of an offence mentioned in section 119(1) ^{F139}... above, evidence may be given of any previous failure by him to pay contributions within the time prescribed for the purpose; and in those subsections “the conviction” and “the offence” mean respectively the conviction referred to in this subsection and the offence of which the person is convicted.

(2) Such evidence may be given only if notice of intention to give it is served with the summons or warrant or, in Scotland, the complaint on which the person appeared before the court which convicted him.

(3) If the offence is one of failure to pay a Class 1 contribution, evidence may be given of failure on his part to pay (whether or not in respect of the same person) such contributions or any Class 1A [^{F140}or Class 1B] contributions or [^{F141}contributions equivalent premiums] on the date of the offence, or during the [^{F142}6 years] preceding that date.

(4) If the offence is one of failure to pay Class 1A contribution, evidence may be given of failure on his part to pay (whether or not in respect of the same person or the same [^{F143}amount]) such contributions, or any Class 1 [^{F140}or Class 1B] contributions or [^{F141}contributions equivalent premiums], on the date of the offence, or during the [^{F142}6 years] preceding that date.

^{F144}(4A) If the offence is one of failure to pay a Class 1B contribution, evidence may be given of failure on his part to pay such contributions, or any Class 1 or Class 1A contributions or contributions equivalent premiums, on the date of the offence, or during the 6 years preceding that date.]

(5) If the offence—

(a) is one of failure to pay Class 2 contributions; ^{F145}...

^{F145}(b)

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evidence may be given of his failure to pay such contributions during those [^{F146} years].

- (6) On proof of any matter of which evidence may be given under subsection (3), (4), [^{F147}(4A)] or (5) above, the person convicted shall be liable to pay to the [^{F148}Inland Revenue] a sum equal to the total of all amounts which he is so proved to have failed to pay and which remain unpaid at the date of the conviction.

Textual Amendments

- F139** Words in s. 120(1) repealed (6.4.1999) by Social Security Act 1998 (c. 14), s. 87(2), Sch. 7 para. 86(1), **Sch. 8**; S.I. 1999/526, art. 2(3)(4)(b)
- F140** Words in s. 120(3)(4) inserted (6.4.1999) by Social Security Act 1998 (c. 14), s. 87(2), **Sch. 7 para. 86(2)(a)(3)(a)**; S.I. 1998/2209, art. 2(c), Sch. Pt. III
- F141** Words in s. 120(3)(4) substituted (6.4.1997) by Pensions Act 1995 (c. 26), s. 180(1), **Sch. 5 para. 15(3)**; S.I. 1997/664, art. 2(3), Sch. Pt. II
- F142** Words in s. 120(3)(4) substituted (6.4.1999) by Social Security Act 1998 (c. 14), s. 87(2), **Sch. 7 para. 86(2)(b)(3)(b)**; S.I. 1998/2209, art. 2(3)(4)(b)
- F143** Word in s. 120(4) substituted (with effect in relation to the tax year beginning 6.4.2000 and subsequent tax years) by Child Support, Pensions and Social Security Act 2000 (c. 19), **ss. 74(6)**, 86 (with s. 74(8))
- F144** S. 120(4A) inserted (6.4.1999) by Social Security Act 1998 (c. 14), s. 87(2), **Sch. 7 para. 86(4)**; S.I. 1998/2209, art. 2(c), Sch. Pt. III
- F145** S. 120(5)(b) and preceding word repealed (6.4.1999) by Social Security Act 1998 (c. 14), s. 87(2), Sch. 7 para. 86(5)(a), **Sch. 8**; S.I. 1999/526, art. 2(3), (4)(b), (c)(iv)
- F146** Words in s. 120(5) substituted (6.4.1999) by Social Security Act 1998 (c. 14), s. 87(2), Sch. 7 para. 86(5)(b), **Sch. 8**; S.I. 1999/526, art. 2(3), (4)(b)
- F147** Word in s. 120(6) inserted (6.4.1999) by Social Security Act 1998 (c. 14), s. 87(2), **Sch. 7 para. 86(6)**; S.I. 1998/2209, art. 2(c), Sch. Pt. III
- F148** Words in s. 120(6) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(2)(a), **Sch. 1 para. 23**; S.I. 1999/527, art. 2(b), Sch. 2

121 Unpaid contributions—supplementary

- (1) Where in England and Wales a person charged with an offence mentioned in section 119(1) ^{F149}... above is convicted of that offence in his absence under section [^{F150}12(5)] of the ^{M1}Magistrates' Courts Act 1980, then if—

- (a) it is proved to the satisfaction of the court, on oath or in the manner prescribed by [^{F151}Criminal Procedure Rules], that notice under section 120(2) above has been duly served specifying the other contributions in respect of which the prosecutor intends to give evidence; and
- (b) the [^{F152}designated officer for] the court has received a statement in writing purporting to be made by the accused or by a solicitor acting on his behalf to the effect that if the accused is convicted in his absence of the offence charged he desires to admit failing to pay the other contributions so specified or any of them,

section 120 above shall have effect as if the evidence had been given and the failure so admitted had been proved, and the court shall proceed accordingly.

- (2) In England and Wales, where a person is convicted of an offence mentioned in section 119(1) ^{F153}... above and an order is made under [^{F154}section 12 of the Powers of

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Criminal Courts (Sentencing) Act 2000] discharging him absolutely or conditionally, sections 119 and 120 above, and subsection (1) above, shall apply as if it were a conviction for all purposes.

- (3) In Scotland, where a person is convicted on indictment of, or is charged before a court of summary jurisdiction with, any such offence, and an order is made under Part I of the ^{M2}Criminal Procedure (Scotland) Act 1975 discharging him absolutely or placing him on probation, sections 119 and 120 above shall apply as if—
- (a) the conviction on indictment were a conviction for all purposes; or
 - (b) (as the case may be) the making of the order by the court of summary jurisdiction were a conviction.
- (4) In England and Wales, any sum which a person is liable to pay under section 119 or 120 above or under subsection (1) above shall be recoverable from him as a penalty.
- (5) Sums recovered by the [^{F155}Inland Revenue] under the provisions mentioned in subsection (4) above, so far as representing contributions of any class, are to be treated for all purposes of the Contributions and Benefits Act and this Act (including in particular the application of section 162 below) as contributions of that class received by the [^{F155}Inland Revenue].
- (6) Without prejudice to subsection (5) above, in so far as such sums represent primary Class 1 or Class 2 contributions, they are to be treated as contributions paid in respect of the person in respect of whom they were originally payable; and enactments relating to earnings factors shall apply accordingly.

Textual Amendments

- F149** Words in s. 121(1) repealed (6.4.1999) by [Social Security Act 1998 \(c. 14\)](#), s. 87(2), [Sch. 7 para. 87](#), [Sch. 8](#); [S.I. 1999/526](#), art. 2
- F150** Word in s. 121(1) substituted (1.9.1998) by [Magistrates' Courts \(Procedure\) Act 1998 \(c. 15\)](#), [ss. 4\(2\)\(a\)](#), 5(2); [S.I. 1998/1837](#), art. 2
- F151** Words in s. 121(1)(a) substituted (1.9.2004) by [Courts Act 2003 \(c. 39\)](#), s. 110(1), [Sch. 8 para. 355\(a\)](#); [S.I. 2004/2066](#), art. 2(c)(xv) (with art. 3)
- F152** Words in s. 121(1)(b) substituted (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), s. 110(1), [Sch. 8 para. 355\(b\)](#); [S.I. 2005/910](#), art. 3(y)
- F153** Words in s. 121(2) repealed (6.4.1999) by [Social Security Act 1998 \(c. 14\)](#), s. 87(2), [Sch. 7 para. 87](#), [Sch. 8](#); [S.I. 1999/526](#), art. 2
- F154** Words in s. 121(2) substituted (25.8.2000) by [Powers of Criminal Courts \(Sentencing\) Act 2000 \(c. 6\)](#), s. 168(1), [Sch. 9 para. 150](#)
- F155** Words in s. 121(5) substituted (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 28(2)(a), [Sch. 1 para. 24](#); [S.I. 1999/527](#), art. 2(b), [Sch. 2](#)

Marginal Citations

- M1** 1980 c. 43
- M2** 1975 c. 21.

^{F156} **121A** Recovery of contributions etc. in England and Wales

.....

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Textual Amendments

F156 S. 121A omitted (6.4.2014) by virtue of [Finance Act 2008 \(c. 9\)](#), s. 129(4), [Sch. 43 para. 2](#); S.I. 2014/906, art. 2

^{F157}121B Recovery of contributions etc. in Scotland

.....

Textual Amendments

F157 S. 121B omitted (23.11.2009) by virtue of [Finance Act 2008 \(c. 9\)](#), s. 129(4), [Sch. 43 para. 14](#); S.I. 2009/3024, art. 3 (with art. 4)

^{F158}121C Liability of directors etc. for company's contributions

- (1) This section applies to contributions which a body corporate is liable to pay, where—
 - (a) the body corporate has failed to pay the contributions at or within the time prescribed for the purpose; and
 - (b) the failure appears to the [^{F159}Inland Revenue] to be attributable to fraud or neglect on the part of one or more individuals who, at the time of the fraud or neglect, were officers of the body corporate (“culpable officers”).
- (2) The [^{F159}Inland Revenue] may issue and serve on any culpable officer a notice (a “personal liability notice”)—
 - (a) specifying the amount of the contributions to which this section applies (“the specified amount”);
 - (b) requiring the officer to pay to the [^{F159}Inland Revenue]—
 - (i) a specified sum in respect of that amount; and
 - (ii) specified interest on that sum; and
 - (c) where that sum is given by paragraph (b) of subsection (3) below, specifying the proportion applied by the [^{F159}Inland Revenue] for the purposes of that paragraph.
- (3) The sum specified in the personal liability notice under subsection (2)(b)(i) above shall be—
 - (a) in a case where there is, in the opinion of the [^{F159}Inland Revenue], no other culpable officer, the whole of the specified amount; and
 - (b) in any other case, such proportion of the specified amount as, in the opinion of the [^{F159}Inland Revenue], the officer's culpability for the failure to pay that amount bears to that of all the culpable officers taken together.
- (4) In assessing an officer's culpability for the purposes of subsection (3)(b) above, the [^{F159}Inland Revenue] may have regard both to the gravity of the officer's fraud or neglect and to the consequences of it.
- (5) The interest specified in the personal liability notice under subsection (2)(b)(ii) above shall be [^{F160}at the Class 1 rate on the Class 1 element of the specified sum, and otherwise at the prescribed rate,] and shall run from the date on which the notice is issued.

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- (6) An officer who is served with a personal liability notice shall be liable to pay to the [^{F159}Inland Revenue] the sum and the interest specified in the notice under subsection (2)(b) above.
- (7) Where, after the issue of one or more personal liability notices, the amount of contributions to which this section applies is reduced by a payment made by the body corporate-
- the amount that each officer who has been served with such a notice is liable to pay under this section shall be reduced accordingly;
 - the [^{F159}Inland Revenue] shall serve on each such officer a notice to that effect; and
 - where the reduced liability of any such officer is less than the amount that he has already paid under this section, the difference shall be repaid to him together with interest on it [^{F161}at the Class 1 rate on the Class 1 element of it and otherwise] at the prescribed rate.
- (8) Any amount paid under a personal liability notice shall be deducted from the liability of the body corporate in respect of the specified amount.
- [The amount which an officer is liable to pay under this section is to be recovered in
- ^{F162}(8A) the same manner as a Class 1 contribution to which regulations under paragraph 6 of Schedule 1 to the Contributions and Benefits Act apply and for this purpose references in those regulations to Class 1 contributions are to be construed accordingly.]
- (9) In this section—
- [^{F163}“the Class 1 rate”—
- in subsection (5) means the rate from time to time applicable under section 103(1) of the Finance Act 2009; and
 - in subsection (7)(c) means the rate from time to time applicable under section 103(2) of that Act;]

[^{F163}“the Class 1 element”, in relation to any amount, means so much of that amount as is calculated by—

 - multiplying that amount by so much of the specified amount as consists of Class 1 contributions; and
 - dividing the product of that multiplication by the specified amount;]

“contributions” includes any interest or penalty in respect of contributions [^{F164}(and accordingly, in the definition of “the Class 1 element” given by this subsection, “Class 1 contributions” includes any interest or penalty in respect of Class 1 contributions)];

“officer”, in relation to a body corporate, means-

 - any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act as such; and
 - in a case where the affairs of the body corporate are managed by its members, any member of the body corporate exercising functions of management with respect to it or purporting to do so;

“the prescribed rate” means the rate from time to time prescribed by regulations under section 178 of the Finance Act 1989 for the purposes of the corresponding provision of Schedule 1 to the Contributions and Benefits Act, that is to say-

 - in relation to subsection (5) above, paragraph 6(2)(a);
 - in relation to subsection (7) above, paragraph 6(2)(b).]

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Textual Amendments

- F158** Ss. 121C, 121D inserted (6.4.1999) by Social Security Act 1998 (c. 14), **ss. 64**, 87(2); S.I. 1999/526, art. 2(4)(a)
- F159** Words in s. 121C substituted (1.4.1999) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(3), **Sch. 5 para. 10**; S.I. 1999/527, art. 2(b), **Sch. 2**
- F160** Words in s. 121C(5) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2009, Sections 101 and 102 (Interest on Late Payments and Repayments) (Consequential Amendments) Order 2014 (S.I. 2014/1283), art. 1(1), **Sch. para. 2(a)**
- F161** Words in s. 121C(7)(c) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2009, Sections 101 and 102 (Interest on Late Payments and Repayments) (Consequential Amendments) Order 2014 (S.I. 2014/1283), art. 1(1), **Sch. para. 2(b)**
- F162** S. 121C(8A) inserted (1.9.2004) by National Insurance Contributions and Statutory Payments Act 2004 (c. 3), **ss. 5(3)**, 13; S.I. 2004/1943, art. 2(e)
- F163** Words in s. 121C(9) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2009, Sections 101 and 102 (Interest on Late Payments and Repayments) (Consequential Amendments) Order 2014 (S.I. 2014/1283), art. 1(1), **Sch. para. 2(c)(i)**
- F164** Words in s. 121C(9) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by The Finance Act 2009, Sections 101 and 102 (Interest on Late Payments and Repayments) (Consequential Amendments) Order 2014 (S.I. 2014/1283), art. 1(1), **Sch. para. 2(c)(ii)**

[^{F158}121D] Appeals in relation to personal liability notices

- (1) No appeal shall lie in relation to a personal liability notice except as provided by this section.
- (2) An individual who is served with a personal liability notice may appeal ^{F165}... against the [^{F166}Inland Revenue's] decision as to the issue and content of the notice on the ground that—
 - (a) the whole or part of the amount specified under subsection (2)(a) of section 121C above (or the amount so specified as reduced under subsection (7) of that section) does not represent contributions to which that section applies;
 - (b) the failure to pay that amount was not attributable to any fraud or neglect on the part of the individual in question;
 - (c) the individual was not an officer of the body corporate at the time of the alleged fraud or neglect; or
 - (d) the opinion formed by the [^{F166}Inland Revenue] under subsection (3)(a) or (b) of that section was unreasonable.
- (3) The [^{F166}Inland Revenue] shall give a copy of any notice of an appeal under this section, within 28 days of the giving of the notice, to each other individual who has been served with a personal liability notice.
- (4) On an appeal under this section, the burden of proof as to any matter raised by a ground of appeal shall be on the [^{F166}Inland Revenue].
- (5) Where an appeal under this section—
 - (a) is brought on the basis of evidence not considered by the [^{F166}Inland Revenue], or on the ground mentioned in subsection (2)(d) above; and
 - (b) is not allowed on some other basis or ground,

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[^{F167}and is notified to the tribunal, the tribunal shall][^{F168}either dismiss the appeal or remit the case to the Inland Revenue, with any recommendations the [^{F169}tribunal sees] fit to make, for the Inland Revenue to consider whether to vary their] decision as to the issue and content of the personal liability notice.

(6) In this section—

^{F170}

“officer”, in relation to a body corporate, has the same meaning as in section 121C above;

“personal liability notice” has the meaning given by subsection (2) of that section;

^{F170}

[^{F171}“tribunal” means the First-tier Tribunal or, where determined under Tribunal Procedure Rules, the Upper Tribunal;]

[^{F172}“vary” means vary under regulations made under section 10 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999.]]

Textual Amendments

- F158** Ss. 121C, 121D inserted (6.4.1999) by Social Security Act 1998 (c. 14), ss. 64, 87(2); S.I. 1999/526, art. 2(4)(a)
- F165** Words in s. 121D(2) omitted (1.4.2009) by virtue of The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 171(2)**
- F166** Words in s. 121D substituted (1.4.1999) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(3), **Sch. 5 para. 11(2)**; S.I. 1999/527, art. 2(b), Sch. 2
- F167** Words in s. 121D(5) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 171(3)(a)**
- F168** Words in s. 121D(5) substituted (1.4.1999) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(3), **Sch. 5 para. 11(4)**; S.I. 1999/527, art. 2(b), Sch. 2
- F169** Words in s. 121D(5) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 171(3)(b)**
- F170** Words in s. 121D(6) repealed (1.4.1999) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(3), Sch. 5 para. 11(5), **Sch. 10 Pt. I**; S.I. 1999/527, art. 2(b), Sch. 2
- F171** Words in s. 121D(6) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 171(4)**
- F172** Words in s. 121D(6) inserted (1.4.1999) by Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), s. 28(3), **Sch. 5 para. 11(5)**; S.I. 1999/527, art. 2(b), Sch. 2

[^{F173}121D] Interpretation of Part VI

(1) In this Part “the relevant social security legislation” means the provisions of any of the following, except so far as relating to contributions, ^{F174}... statutory sick pay or statutory maternity pay, that is to say—

- (a) the Contributions and Benefits Act;
- (b) this Act;
- (c) the Pensions Act, except Part III;
- (d) section 4 of the Social Security (Incapacity for Work) Act 1994;
- (e) the Jobseekers Act 1995;
- (f) the Social Security (Recovery of Benefits) Act 1997;
- (g) Parts I and IV of the Social Security Act 1998;

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- (h) Part V of the Welfare Reform and Pensions Act 1999;
 - [the State Pension Credit Act 2002;]
 - ^{F175}(hh)
 - [Part 1 of the Welfare Reform Act 2007;]
 - ^{F176}(hi)
 - [Part 1 of the Welfare Reform Act 2012;]
 - ^{F177}(hj)
 - [Part 4 of that Act;]
 - ^{F178}(hk)
 - [Part 1 of the Pensions Act 2014;]
 - ^{F179}(hl)
 - (i) the Social Security Pensions Act 1975;
 - (j) the Social Security Act 1973;
 - (k) any subordinate legislation made, or having effect as if made, under any enactment specified in paragraphs (a) to (j) above.
- (2) In this Part “authorised officer” means a person acting in accordance with any authorisation for the purposes of this Part which is for the time being in force in relation to him.
- (3) For the purposes of this Part—
- (a) references to a document include references to anything in which information is recorded in electronic or any other form;
 - (b) the requirement that a notice given by an authorised officer be in writing shall be taken to be satisfied in any case where the contents of the notice—
 - (i) are transmitted to the recipient of the notice by electronic means; and
 - (ii) are received by him in a form that is legible and capable of being recorded for future reference.
- (4) In this Part “premises” includes—
- (a) moveable structures and vehicles, vessels, aircraft and hovercraft;
 - (b) installations that are offshore installations for the purposes of the Mineral Workings (Offshore Installations) Act 1971; and
 - (c) places of all other descriptions whether or not occupied as land or otherwise;
- and references in this Part to the occupier of any premises shall be construed, in relation to premises that are not occupied as land, as references to any person for the time being present at the place in question.
- (5) In this Part—
- “benefit” includes any allowance, payment, credit or loan;
 - ^{F180} “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;] and
- “compensation payment” has the same meaning as in the Social Security (Recovery of Benefits) Act 1997.

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(6) ^{F181}In this Part—

- (a) any reference to a person authorised to carry out any function relating to housing benefit or council tax benefit shall include a reference to a person providing services relating to the benefit directly or indirectly to an authority administering it; and
- (b) any reference to the carrying out of a function relating to such a benefit shall include a reference to the provision of any services relating to it.]

(7) In this section

^{F182}“relevant social security benefit” means a benefit under any provision of the relevant social security legislation; and]

“subordinate legislation” has the same meaning as in the Interpretation Act 1978.]

Textual Amendments

- F173** S. 121DA inserted (1.11.1000 for specified purposes, 2.4.2001 in so far as not already in force) by the [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#), s. 86, **Sch. 6 para. 8**; S.I. 2000/2950, art. 2(d)(ii); S.I. 2001/1252, art. 2(1)(a)
- F174** Words in s. 121DA(1) repealed (8.4.2003) by [Tax Credits Act 2002 \(c. 21\)](#), s. 61, **Sch. 6**; S.I. 2003/962, art. 2(4)(e), Sch. 2 (with art. 3)
- F175** S. 121DA(1)(hh) inserted (2.7.2002 for specified purposes, 6.10.2003 in so far as not already in force) by [State Pension Credit Act 2002 \(c. 16\)](#), s. 22(3), **Sch. 2 para. 12**; S.I. 2002/1691, art. 2(1); S.I. 2003/1766, art. 2(a)
- F176** S. 121DA(1)(hi) inserted (18.3.2008 for specified purposes, 27.10.2008 in so far as not already in force) by [Welfare Reform Act 2007 \(c. 5\)](#), s. 70(2), **Sch. 3 para. 10(12)**; S.I. 2008/787, art. 2(1)(4)(f), Sch.
- F177** S. 121DA(1)(hj) inserted (29.4.2013) by [Welfare Reform Act 2012 \(c. 5\)](#), s. 150(3), **Sch. 2 para. 14**; S.I. 2013/983, art. 3(1)(b)(ii)
- F178** S. 121DA(1)(hk) inserted (8.4.2013 for specified purposes, 10.6.2013 in so far as not already in force) by [Welfare Reform Act 2012 \(c. 5\)](#), s. 150(3), **Sch. 9 para. 12**; S.I. 2013/358, art. 7(1)(2)(k), Sch. 3; S.I. 2013/1250, art. 2
- F179** S. 121DA(1)(hl) inserted (6.4.2016) by [Pensions Act 2014 \(c. 19\)](#), s. 56(4), **Sch. 12 para. 13**
- F180** Words in s. 121DA(5) substituted (30.4.2002) by [Social Security Fraud Act 2001 \(c. 11\)](#), **ss. 1(7)**, 20(1); S.I. 2002/1222, art. 2(a)
- F181** S. 121DA(6) repealed (1.4.2013 in so far as relates to the abolition of council tax benefit) by [Welfare Reform Act 2012 \(c. 5\)](#), s. 150(3), **Sch. 14 Pt. 1**; S.I. 2013/358, art. 8(c), Sch. 4 (with arts. 9, 10, Sch. 5)
- F182** Words in s. 121DA(7) inserted (30.4.2002) by [Social Security Fraud Act 2001 \(c. 11\)](#), **ss. 1(8)**, 20(1); S.I. 2002/1222, art. 2(a)

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