



Social Security Administration (Northern Ireland) Act 1992

1992 CHAPTER 8

PART VI

ENFORCEMENT

Unpaid contributions etc.

^{F1}[115B 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 [^{F2} 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 [^{F2} 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 [^{F2} 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 [^{F2} 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—

Status: Point in time view as at 20/05/2014.

Changes to legislation: *Social Security Administration (Northern Ireland) Act 1992, Section 115B is up to date with all changes known to be in force on or before 25 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) in a case where there is, in the opinion of the [^{F2} 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 [^{F2} 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 [^{F2} 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 [^{F3}at the Class 1 rate on the Class 1 element of the specified sums, and otherwise at the prescribed rate,] and shall run from the date on which the notice is issued.
- (6) An officer who is served with a personal liability notice shall be liable to pay to the [^{F2} 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—
- (a) the amount that each officer who has been served with such a notice is liable to pay under this section shall be reduced accordingly;
 - (b) the [^{F2}Inland Revenue] shall serve on each such officer a notice to that effect; and
 - (c) 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 [^{F4}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.
- [^{F5}(8A) The amount which an officer is liable to pay under this section is to be recovered in 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—
- [^{F6}“the Class 1 rate”—
 - (a) in subsection (5) means the rate from time to time applicable under section 103(1) of the Finance Act 2009; and
 - (b) in subsection (7)(c) means the rate from time to time applicable under section 103(2) of that Act; - “the Class 1 element”, in relation to any amount, means so much of that amount as is calculated by—
 - (a) multiplying that amount by so much of the specified amount as consists of Class 1 contributions; and
 - (b) dividing the product of that multiplication by the specified amount;]
 - “contributions” includes any interest or penalty in respect of contributions [^{F7}(and accordingly, in the definition of “the Class 1 element” given by this subsection,

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“Class 1 contributions” includes any interest or penalty in respect of Class 1 contributions)] ;

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

- (a) any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act as such; and
- (b) 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 under paragraph 6 of Schedule 1 to the Contributions and Benefits Act for the purposes of the corresponding provision of that paragraph, that is to say—

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

Textual Amendments

- F1** S. 115B inserted (6.4.1999) by S.I. 1998/1506 (N.I. 10), **art. 60**; S.R. 1999/102, art. 2(d), **Sch. Pt. III**
- F2** Words in s. 115B substituted (1.4.1999) by S.I. 1999/671, art. 5, **Sch. 4 para. 10(2)**; S.R. 1999/149, art. 2(c), **Sch. 2** (subject to arts. 3-6 of the said S.R.)
- F3** Words in s. 115B(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. 4(a)**
- F4** Words in s. 115B(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. 4(b)**
- F5** S. 115B(8A) inserted (1.9.2004) by National Insurance Contributions and Statutory Payments Act 2004 (c. 3), **ss. 6(2)**, 13; S.I. 2004/1943, art. 2(f)
- F6** Words in s. 115B(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. 4(c)(i)**
- F7** Words in s. 115B(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. 4(c)(ii)**

Modifications etc. (not altering text)

- C1** S. 115B applied with modifications (5.10.1999) by 1999 c. 10, **ss. 11(1)(2)**, 20(2)

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