



Social Security Administration (Fraud) Act 1997

1997 CHAPTER 47

Offences, penalties and overpayments

13 **Offence of dishonest representation for obtaining benefit.** **E+W+S**

After section 111 of the ^{M1}Social Security Administration Act 1992 insert—

“111A Dishonest representations for obtaining benefit etc.

- (1) If a person dishonestly—
- makes a false statement or representation;
 - produces or furnishes, or causes or allows to be produced or furnished, any document or information which is false in a material particular;
 - fails to notify a change of circumstances which regulations under this Act require him to notify; or
 - causes or allows another person to fail to notify a change of circumstances which such regulations require the other person to notify,
- with a view to obtaining any benefit or other payment or advantage under the social security legislation (whether for himself or for some other person), he shall be guilty of an offence.
- (2) In this section “the social security legislation” means the Acts to which section 110 above applies and the ^{M2}Jobseekers Act 1995.
- (3) A person guilty of an offence under this section shall be liable—
- 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
 - on conviction on indictment, to imprisonment for a term not exceeding seven years, or to a fine, or to both.

Changes to legislation: There are currently no known outstanding effects for the Social Security Administration (Fraud) Act 1997, Cross Heading: Offences, penalties and overpayments. (See end of Document for details)

(4) In the application of this section to Scotland, in subsection (1) for “dishonestly” substitute “knowingly”.

Marginal Citations

M1 1992 c. 5.
M2 1995 c. 18.

^{F1}14 E+W+S

Textual Amendments

F1 S. 14 repealed (30.4.2002) by 2001 c. 11, s. 19, Sch.; S.I. 2002/1222, art. 2(i)

15 **Penalty as alternative to prosecution.** E+W+S

After section 115 of the Social Security Administration Act 1992 insert—

“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 or an authority under or by virtue of section 71, 71A, 75 or 76 above and it appears to the Secretary of State 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.
- (2) The Secretary of State or authority may give to 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 or authority, no such proceedings will be instituted against him; and
 - (b) containing such information relating to the operation of this section as may be prescribed.
- (3) The amount of the penalty shall be 30 per cent. of the amount of the overpayment (rounded down to the nearest whole penny).
- (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 recoverable; and
 - (b) no proceedings will be instituted against him for an offence (under this Act or any other enactment) relating to the overpayment.
- (5) The person may withdraw his agreement to pay the penalty by notifying the Secretary of State or authority, in the manner specified by the Secretary of State or authority, at any time during the period of 28 days beginning with the day on which he agrees to pay it; and if he does so—

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- (a) so much of the penalty as has already been recovered shall be repaid;
and
 - (b) subsection (4)(b) above shall not apply.
- (6) 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) 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.
- (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) 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.”

Commencement Information

- II** S. 15 wholly in force; s. 15 not in force at Royal Assent, see s. 25; s. 15 in force at 21.11.1997 for the purpose of regulations and 18.12.1997 for all other purposes by S.I. 1997/2766, art. 2(1)

16 Recovery of overpaid housing benefit. **E+W+S**

In section 75 of the ^{M3}Social Security Administration Act 1992 (recovery of overpayments of housing benefit), after subsection (4) insert—

- “(5) Where an amount paid to a person on behalf of another person is recoverable under this section, subsections (3) and (4) above authorise its recovery from the person to whom it was paid by deduction—
- (a) from prescribed benefits to which he is entitled;
 - (b) from prescribed benefits paid to him to discharge (in whole or in part) an obligation owed to him by the person on whose behalf the recoverable amount was paid; or
 - (c) from prescribed benefits paid to him to discharge (in whole or in part) an obligation owed to him by any other person.

Changes to legislation: There are currently no known outstanding effects for the Social Security Administration (Fraud) Act 1997, Cross Heading: Offences, penalties and overpayments. (See end of Document for details)

- (6) Where an amount is recovered as mentioned in paragraph (b) of subsection (5) above, the obligation specified in that paragraph shall in prescribed circumstances be taken to be discharged by the amount of the deduction; and where an amount is recovered as mentioned in paragraph (c) of that subsection, the obligation specified in that paragraph shall in all cases be taken to be so discharged.
- (7) Where any amount recoverable under this section is to be recovered otherwise than by deduction from prescribed benefits—
- (a) if the person from whom it is recoverable resides in England and Wales and the county court so orders, it is recoverable by execution issued from the county court or otherwise as if it were payable under an order of that court; and
 - (b) if he resides in Scotland, it may be enforced in the same manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.”

Commencement Information

I2 S. 16 wholly in force; s. 16 not in force at Royal Assent, see. s. 25; s. 16 in force at 8.10.1997 for the purpose of regulations and 3.11.1997 for all other purposes by S.I. 1997/2417, art. 2(2)

Marginal Citations

M3 1992 c. 5.

Changes to legislation:

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