



Social Security Administration Act 1992

1992 CHAPTER 5

PART VI

ENFORCEMENT

Unpaid contributions etc.

118 Evidence of non-payment

- (1) Subsection (2) below applies with respect to any period during which, under regulations made by virtue of paragraph 5(1) of Schedule 1 to the Contributions and Benefits Act (deduction with P.A.Y.E.), contributions fall to be paid in like manner as income tax.
- (2) A certificate of a collector of taxes that any amount by way of contributions which a person is liable to pay to that collector for any period has not been paid—
 - (a) to him; or
 - (b) to the best of his knowledge and belief, to any other person to whom it might lawfully be paid,shall until the contrary is proved be sufficient evidence in any proceedings before any court that the sum mentioned in the certificate is unpaid and due.
- (3) A document purporting to be such a certificate shall be deemed to be such a certificate until the contrary is proved.
- (4) A statutory declaration by an officer of the Secretary of State that the searches specified in the declaration for a particular contribution card or for a record of the payment of a particular contribution have been made, and that the card in question or 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.

119 Recovery of unpaid contributions on prosecution

(1) Where—

- (a) a person has been convicted of an 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 Secretary of State a sum equal to the amount which he failed to pay.

(2) Where—

- (a) a person is convicted of an offence—
 - (i) under section 114(3)(b) above; or
 - (ii) under section 13 of the Stamp Duties Management Act 1891 as applied by regulations made under paragraph 7(3) of Schedule 1 to the Contributions and Benefits Act; or
 - (iii) of contravening or failing to comply with regulations; and
- (b) the evidence on which he is convicted shows that he, for the purposes of paying any contribution which he was liable or entitled to pay, has affixed to any contribution card any used contribution stamp; and
- (c) the contribution (not being a Class 3 contribution) in respect of which the stamp was affixed remains unpaid at the date of the conviction,

he shall be liable to pay to the Secretary of State a sum equal to the amount of the contribution.

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) or (2)(a) 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 contributions or state scheme premiums on the date of the offence, or during the 2 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 car) such contributions, or any Class 1 contributions or state scheme premiums, on the date of the offence, or during the 2 years preceding that date.
- (5) If the offence—
 - (a) is one of failure to pay Class 2 contributions; or
 - (b) is one of those mentioned in section 119(2)(a) above,evidence may be given of his failure to pay such contributions during those 2 years.
- (6) On proof of any matter of which evidence may be given under subsection (3), (4), or (5) above, the person convicted shall be liable to pay to the Secretary of State 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.

121 Unpaid contributions - supplementary

- (1) Where in England and Wales a person charged with an offence mentioned in section 119(1) or (2)(a) above is convicted of that offence in his absence under section 12(2) of the Magistrates' Courts Act 1980, then if—
 - (a) it is proved to the satisfaction of the court, on oath or in the manner prescribed by rules under section 144 of that Act, 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 clerk of 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) or (2)(a) above and an order is made under Part I of the Powers of Criminal Courts Act 1973 placing the offender on probation or 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 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 Secretary of State under the provisions mentioned in subsection (4) above, so far as representing contributions of any class, are to be treated

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

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 Secretary of State.

- (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.