
STATUTORY INSTRUMENTS

2015 No. 2006

The Welfare Reform (Northern Ireland) Order 2015

PART 6

Social security: general

Penalties as alternative to prosecution

Penalty in respect of benefit fraud not resulting in overpayment

115.—(1) Section 109A of the Administration Act (penalty as alternative to prosecution) is amended as follows.

(2) After subsection (1) insert—

“(1A) This section also applies where—

- (a) it appears to the Department or the Housing Executive that there are grounds for instituting proceedings against a person for an offence (under this Act or any other statutory provision) 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 Department or the Housing Executive under or by virtue of section 69, 69ZB, 69A or 73.”

(3) In subsection (2)(a) for “such proceedings” substitute “ proceedings referred to in subsection (1) or (1A) ”.

(4) In subsection (4)—

- (a) in paragraph (a), after “is” insert “ or would have been ”;
- (b) in paragraph (b), at the end insert “ or to the act or omission referred to in subsection (1A)(a). ”

(5) In subsections (6) and (7), at the beginning insert “ In a case referred to in subsection (1) ”.

(6) In subsection (7B)(a), after “is”, in both places, insert “ or would have been ”.

(7) In subsection (8) after “subsection (1)(a)” insert “ or (1A)(b) ”.

(8) In the Social Security Fraud Act (Northern Ireland) 2001—

- (a) in section 5B(1)(b), the words “by reference to an overpayment” are repealed and for “the offence mentioned in subsection (1)(b) of the appropriate penalty provision” substitute “ the offence to which the notice relates ”;
- (b) in sections 5C(2)(b) and (3), 7(7)(b) and (8) and 8(7)(b) and (8), for “the overpayment” substitute “ any overpayment made ”.

Changes to legislation: *The Welfare Reform (Northern Ireland) Order 2015, Cross Heading: Penalties as alternative to prosecution is up to date with all changes known to be in force on or before 15 July 2018. 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)*

Annotations:

Commencement Information

I1 [Art. 115](#) in operation at 4.4.2016 by [S.R. 2016/46](#), [art. 4\(b\)](#)

Amount of penalty

116.—(1) In section 109A of the Administration Act (penalty as alternative to prosecution), for subsection (3) substitute—

“(3) The amount of the penalty in a case falling within subsection (1) is 50 per cent. 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 £2000.

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

(3B) The Department 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).”

(2) In section 166 of the Administration Act (Assembly, etc. control of orders and regulations), in subsection (2), before paragraph (a) insert—

“(za) to any order made under section 109A(3B);”.

Annotations:

Commencement Information

I2 [Art. 116](#) in operation at 4.4.2016 by [S.R. 2016/46](#), [art. 4\(b\)](#)

Changes to legislation:

The Welfare Reform (Northern Ireland) Order 2015, Cross Heading: Penalties as alternative to prosecution is up to date with all changes known to be in force on or before 15 July 2018. 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.

Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing SR 2016/46, art. 5(a) by [S.R. 2016/166 art. 3](#)

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- art. 56(1) repealed by [S.I. 2015/2006 \(N.I.\) Sch. 12 Pt. 1](#)

Commencement Orders yet to be applied to the The Welfare Reform (Northern Ireland) Order 2015

Commencement Orders bringing legislation that affects this Order into force:

- [S.R. 2018/66 art. 2\(1\)](#) commences ([S.I. 2016/999 \(N.I.\)](#))