



Social Security Administration Act 1992

1992 CHAPTER 5

PART VI

ENFORCEMENT

Legal proceedings

116 Legal proceedings

- (1) Any person authorised by the Secretary of State in that behalf may conduct any proceedings under this Act before a magistrates' court although not a barrister or solicitor.
- (2) Notwithstanding anything in any Act—
 - (a) proceedings for an offence under this Act other than an offence relating to housing benefit or community charge benefits 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; and
 - (b) proceedings for an offence under this Act relating to housing benefit or community charge benefits 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.
- (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; and

Status: This is the original version (as it was originally enacted).

- (b) 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) In subsections (2) and (3) above “the appropriate authority” means, in relation to an offence which relates to housing benefit and concerns any dwelling—
 - (a) if the offence relates to rate rebate, the authority who are the appropriate rating authority by virtue of section 134 below; and
 - (b) if it relates to a rent rebate, the authority who are the appropriate housing authority by virtue of that subsection; and
 - (c) if it relates to rent allowance, the authority who are the appropriate local authority by virtue of that subsection.
- (5) In subsections (2) and (3) above “the appropriate authority” means, in relation to an offence relating to community charge benefits, such authority as is prescribed in relation to the offence.
- (6) Any proceedings in respect of any act or omission of an adjudication officer which, apart from this subsection, would fall to be brought against a person appointed by virtue of section 38(1)(b) above who is resident in Northern Ireland, other than proceedings for an offence, may instead be brought against the Chief Adjudication Officer; and, for the purposes of any proceedings so brought, the acts or omissions of the adjudication officer shall be treated as the acts or omissions of the Chief Adjudication Officer.
- (7) In the application of this section to Scotland, the following provisions shall have effect in substitution for subsections (1) to (5) above—
 - (a) proceedings for an offence under this Act may, notwithstanding anything in section 331 of the Criminal Procedure (Scotland) Act 1975, be commenced at any time within the period of 3 months from the date on 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;
 - (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 section 331 of the said Act of 1975 (date of commencement of proceedings) shall have effect as it has effect for the purposes of that section.

117 Questions arising in proceedings

- (1) Where in any proceedings—
 - (a) for an offence under this Act; 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 or the National Insurance Fund,

any such question arises as is mentioned in section 17(1) above, the decision of the Secretary of State shall be conclusive for the purposes of the proceedings.

(2) If—

- (a) a decision of any such question is necessary for the determination of proceedings; and
- (b) the decision of the Secretary of State has not been obtained or a question has been raised with a view to a review of the decision obtained,

the question shall be referred to the Secretary of State for determination or review in accordance (subject to any necessary modifications) with Part II of this Act.

(3) Subsection (1) above does not apply if—

- (a) an appeal under section 18 above is pending; or
- (b) the time for appealing has not expired; or
- (c) a question has been raised with a view to a review of the Secretary of State's decision under section 19 above,

and the court dealing with the case shall adjourn the proceedings until such time as a final decision on the question has been obtained.