

SOCIAL SECURITY FRAUD ACT 2001

EXPLANATORY NOTES

COMMENTARY ON CLAUSE 16

178. Clause 16(1) and (2) omit paragraphs (c) and (d) from section 111A(1) and insert new subsections (1A) to (1G).
179. Subsection (1A) defines the new offence of “dishonestly” failing to give prompt notification of a change of circumstances in relation to the claimant himself. Subsection (1B) defines the offence in relation to a third party who dishonestly causes or allows another person to fail to give prompt notification of a change in circumstances. This would apply, for example, in the case of a woman whose part-time earnings increase in circumstances where her husband is claiming income support. If she knows that this particular change affects his entitlement to benefit and does not inform him, thereby causing him to fail to notify the change, she is guilty of an offence.
180. Subsections (1C) and (1D) provide that the offence of dishonestly failing to give a prompt notification of a change in the circumstances of the claimant extends to third parties who have a right to receive payments on behalf of the claimant. This would, for instance, apply in cases where the claimant is unable for the time being to act for himself and, in the absence of any person having been legally appointed to act for him, the Secretary of State appoints a person to exercise on behalf of the claimant, any right to which that person may be entitled and to receive and deal on his behalf with any sums payable to him. If the person so appointed dishonestly fails to notify a change in the claimant’s circumstances, knowing that the change in question affects benefit, he is guilty of an offence.
181. Subsection (1E) provides that it is an offence if a third party, knowing that a particular change in circumstances affects the claimant’s entitlement to benefit, dishonestly causes or allows a person with the right to receive payments on behalf of the claimant to fail to make a prompt notification of that change. This extends the third party offence of dishonestly causing or allowing a failure on the part of the claimant whose responsibility it is to notify a relevant change in circumstances. It means that the offence applies equally if another person has been granted the right to receive payments on behalf of the claimant and is caused or allowed, by a third party, to fail to make a prompt notification of a change in the claimant’s circumstances.
182. Subsection (1F) qualifies the extent to which subsections (1C), (1D) and (1E) can be applied to the landlord of a tenant entitled to housing benefit. It ensures that a landlord cannot be guilty of an offence under these provisions unless the change in circumstances that the landlord has failed to notify promptly are those which relate to the claimant’s occupation of the dwelling or to his liability to pay rent. The subsection further provides that the landlord must either know that the change in question is one that affects the claimant’s benefit, or be one which he could reasonably be expected to know would do so.
183. Subsection (1G) provides that a notification is “prompt” if it given as soon as reasonably practicable after the change occurs.

*These notes refer to the Social Security Fraud Act 2001
(c.11) which received Royal Assent on 11 May 2001*

184. Clause 16(1) also amends section 111A(4) so that, the offences set out in subsections (1) to (1E), should, for the purposes of applying them to Scotland, be read as though the word “knowingly” replaced the word “dishonestly” wherever it occurs.
185. Clause 16(3) makes changes to the summary offence in section 112, which mirror those made to section 111A.