

SOCIAL SECURITY FRAUD ACT 2001

EXPLANATORY NOTES

OFFENCES

Clause 17

Time Limit for Proceedings in Scotland

Background

186. Part VI (Inspection and Offences) of the Social Security Administration Act 1992 makes provisions for enforcement, and contains a number of specific offences relating to benefit fraud. Section 111A of the Social Security Administration Act 1992 (dishonest representations for obtaining benefit) was inserted by section 13 of the Social Security Administration (Fraud) Act 1997. At the same time, paragraph 5 of Schedule 1 to the 1997 Act amended section 116 of the Social Security Administration Act 1992 (legal proceedings) to disapply provisions concerning limitation for the purposes of prosecutions under section 111A of the Social Security Administration Act 1992.
187. Subsection (2) of section 116 provides that proceedings for an offence under the Social Security Administration Act 1992 may be begun at any time within a period of three months from the date on which evidence sufficient to justify a prosecution for the offence comes to the Secretary of State's knowledge (or that of the relevant authority in the case of Housing Benefit or Council Tax Benefit cases), or within a period of 12 months from the commission of the offence, whichever is the later date. The Social Security Administration (Fraud) Act 1997 modified this general rule by inserting subsection (2A) which provides that subsection (2) shall not be taken to impose any restriction on the time when proceedings may be begun for an offence under section 111A above.
188. Subsection (7) of section 116 of the Social Security Administration Act 1992 modifies the application of that section as it applies to Scotland, and remained unamended by the Social Security Administration (Fraud) Act 1997. It provides limitations as to the time in which a prosecution must be brought in relation to proceedings under the Social Security Administration Act 1992.
189. No provision equivalent to subsection (2A) of section 116 was made in the 1997 Act for the purposes of prosecutions in Scotland.