STATUTORY INSTRUMENTS

1998 No. 1506

The Social Security (Northern Ireland) Order 1998

PART III

CONTRIBUTIONS

Amendments of the Administration Act

Liability of directors, etc. for company's contributions

60. After section 115A of the Administration Act there shall be inserted the following sections—

"**Liability of directors, etc. for company's contributions.**

115B.—(1) This section applies to contributions which a body corporate is liable to pay, where—

(a) the body corporate has failed to pay the contributions at or within the time prescribed for the purpose; and

(b) the failure appears to the Department to be attributable to fraud or neglect on the part of one or more individuals who, at the time of the fraud or neglect, were officers of the body corporate ("culpable officers").

(2) The Department may issue and serve on any culpable officer a notice (a "personal liability notice")—

(a) specifying the amount of the contributions to which this section applies ("the specified amount");

(b) requiring the officer to pay to the Department—

(i) a specified sum in respect of that amount; and

(ii) specified interest on that sum; and

(c) where that sum is given by paragraph (b) of subsection (3) below, specifying the proportion applied by the Department for the purposes of that paragraph.

(3) The sum specified in the personal liability notice under subsection (2)(b)(i) above shall be—

(a) in a case where there is, in the opinion of the Department, no other culpable officer, the whole of the specified amount; and

(b) in any other case, such proportion of the specified amount as, in the opinion of the Department, the officer's culpability for the failure to pay that amount bears to that of all the culpable officers taken together.

(4) In assessing an officer's culpability for the purposes of subsection (3)(b) above, the Department may have regard both to the gravity of the officer's fraud or neglect and to the consequences of it.

(5) The interest specified in the personal liability notice under subsection (2)(b)(ii) above shall be at the prescribed rate and shall run from the date on which the notice is issued.

(6) An officer who is served with a personal liability notice shall be liable to pay to the Department the sum and the interest specified in the notice under subsection (2)(b) above.

(7) Where, after the issue of one or more personal liability notices, the amount of contributions to which this section applies is reduced by a payment made by the body corporate—

(a) the amount that each officer who has been served with such a notice is liable to pay under this section shall be reduced accordingly;

(b) the Department shall serve on each such officer a notice to that effect; and

(c) where the reduced liability of any such officer is less than the amount that he has already paid under this section, the difference shall be repaid to him together with interest on it at the prescribed rate.

(8) Any amount paid under a personal liability notice shall be deducted from the liability of the body corporate in respect of the specified amount.

(9) In this section—

"contributions" includes any interest or penalty in respect of contributions;

"officer", in relation to a body corporate, means—

(a) any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act as such; and

(b) in a case where the affairs of the body corporate are managed by its members, any member of the body corporate exercising functions of management with respect to it or purporting to do so;

"the prescribed rate" means the rate from time to time prescribed under paragraph 6 of Schedule 1 to the Contributions and Benefits Act for the purposes of the corresponding provision of that paragraph, that is to say—

(a) in relation to subsection (5) above, sub-paragraph (2)(a);

(b) in relation to subsection (7) above, sub-paragraph (2)(b).

Appeals in relation to personal liability notices.

115C.—(1) No appeal shall lie in relation to a notice except as provided by this personal liability section.

(2) An individual who is served with a personal liability notice may appeal to an appeal tribunal against the Department's decision as to the issue and content of the notice on the ground that—

(a) the whole or part of the amount specified under subsection (2)(a) of section 115B above (or the amount so specified as reduced under subsection (7) of that section) does not represent contributions to which that section applies;

(b) the failure to pay that amount was not attributable to any fraud or neglect on the part of the individual in question;

(c) the individual was not an officer of the body corporate at the time of the alleged fraud or neglect; or

(d) the opinion formed by the Department under subsection (3)(a) or (b) of that section was unreasonable.

(3) The Department shall give a copy of any notice of an appeal under this section, within 28 days of the giving of the notice, to each other individual who has been served with a personal liability notice.

(4) On an appeal under this section, the burden of proof as to any matter raised by a ground of appeal shall be on the Department.

(5) Where an appeal under this section—

(a) is brought on the basis of evidence not considered by the Department, or on the ground mentioned in subsection (2)(d) above; and

(b) is not allowed on some other basis or ground,

the appeal tribunal shall either dismiss the appeal or remit the case to the Department, with any recommendations it sees fit to make, for the Department to consider whether to revise its decision as to the issue and content of the personal liability notice.

(6) In this section—

"appeal tribunal" means an appeal tribunal constituted under Chapter I of Part II of the Social Security (Northern Ireland) Order 1998;

"officer", in relation to a body corporate, has the same meaning as in section 115B above;

"personal liability notice" has the meaning given by subsection (2) of that section;

"revise" means revise under Article 10 of the Social Security (Northern Ireland) Order 1998.".

Changes to legislation:
The Social Security (Northern Ireland) Order 1998, Section 60 is up to date with all changes known to be in force on or before 14 September 2024. 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.
View outstanding changes

Changes and effects yet to be applied to :

– power to am. (prosp.) by 1998 c. 47 s.87

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

– Act amended by 1999 c. 10 s.1(2)Sch.1 paras.16(r)

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

– Sch. 2 para. 7A and cross-heading inserted by S.I. 2015/2006 (N.I.) Sch. 2 para. 41(3)
– Sch. 3 para. 3A inserted by S.I. 2015/2006 (N.I.) Sch. 2 para. 42
– art. 38(1A) inserted by 2010 c. 13 (N.I.) s. 16(2)