



Social Security Act 1975

1975 CHAPTER 14

PART IV

GENERAL PROVISIONS AS TO OPERATION AND ADMINISTRATION OF THIS ACT

Unpaid contributions

149 Evidence of non-payment

- (1) Subsection (2) below applies with respect to any period during which, under regulations made by virtue of paragraph 5(1) of Schedule 1 to this Act (deduction with P.A.Y.E.), contributions fall to be paid in like manner as income tax.
- (2) A certificate of a collector of taxes that any amount by way of contributions which a person is liable to pay to that collector for any period has not been paid—
 - (a) to him ; or
 - (b) to the best of his knowledge and belief, to any other person to whom it might lawfully be paid,shall until the contrary is proved be sufficient evidence in any proceedings before any court that the sum mentioned in the certificate is unpaid and due.
- (3) A document purporting to be such a certificate shall be deemed to be such a certificate until the contrary is proved.
- (4) A statutory declaration by an officer of the Secretary of State that the searches specified in the declaration for a particular contribution card or for a record of the payment of a particular contribution have been made, and that the card in question or a record of the payment of the contribution in question has not been found, is admissible in any proceedings for an offence as evidence of the facts stated in the declaration.
- (5) Nothing in subsection (4) above makes a statutory declaration admissible as evidence in proceedings for an offence except in a case where, and to the extent to which, oral evidence to the like effect would have been admissible in those proceedings.

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- (6) Nothing in subsections (4) and (5) above makes a statutory declaration admissible as evidence in proceedings for an offence—
- (a) unless a copy of it has, not less than 7 days before the hearing or trial, been served on the person charged with the offence in any manner in which a summons or, in Scotland, a citation in a summary prosecution may be served; or
 - (b) if that person, not later than 3 days before the hearing or trial or within such further time as the court may in special circumstances allow, gives notice to the prosecutor requiring the attendance at the trial of the person by whom the declaration was made.

150 Recovery on prosecution

- (1) Where a person has been convicted of the offence under section 146(1) of this Act of failing to pay a contribution at or within the time prescribed for the purpose and the contribution remains unpaid at the date of the conviction, he shall be liable to pay to the Secretary of State a sum equal to the amount which he failed to pay.
- (2) Where—
- (a) a person is convicted of an offence under section 146(3)(b) of this Act, or of an offence under section 13 of the Stamp Duties Management Act 1891 as applied by regulations made under paragraph 6(3) of Schedule 1 to this Act, or of an offence of contravening or failing to comply with regulations ; and
 - (b) the evidence on which he is convicted shows that he, for the purpose of paying any contribution which he was liable or entitled to pay, has affixed to any contribution card any used contribution stamp ; and
 - (c) the contribution (not being a Class 3 contribution) in respect of which the stamp was affixed remains unpaid at the date of the conviction,
- he shall be liable to pay to the Secretary of State a sum equal to the amount of the contribution.

151 Proof of previous offences

- (1) Subject to and in accordance with the following subsections, where a person is convicted of an offence mentioned in section 150(1) or (2)(a) above, evidence may be given of any previous failure by him to pay contributions under this Act, or reserve scheme contributions or premiums under the 1973 Act, within the time prescribed for the purpose; and in those subsections " the conviction " and " the offence " mean respectively the conviction referred to in this subsection and the offence of which the person is convicted.
- (2) Such evidence may be given only if notice of intention to give it is served with the summons or warrant or, in Scotland, the complaint on which the person appeared before the court which convicted him.
- (3) If the offence is one of failure to pay a Class 1 contribution, evidence may be given of failure on his part to pay (whether or not in respect of the same person) such contributions, or reserve scheme contributions or premiums, on the date of the offence, or during the 2 years preceding that date.

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- (4) If the offence is one of failure to pay Class 2 contributions or is one of those mentioned in section 150(2)(a), evidence may be given of his failure to pay such contributions during those 2 years.
- (5) On proof of any matter of which evidence may be given under subsection (3) or (4) above, the person convicted shall be liable to pay to the Secretary of State a sum equal to the total of all amounts (whether contributions, premiums or both) which he is so proved to have failed to pay and which remain unpaid at the date of the conviction.

152 Provisions supplementary to ss.150, 151

- (1) Where in England and Wales a person charged with an offence to which section 150(1) or (2)(a) applies is convicted of that offence in his absence under section 1(2) of the Magistrates' Courts Act 1957, then if—
 - (a) it is proved to the satisfaction of the court, on oath or in the prescribed manner, that notice under section 151(2) above has been duly served specifying the other contributions or premiums in respect of which the prosecutor intends to give evidence ; and
 - (b) the clerk of the court has received a statement in writing purporting to be made by the accused or by a solicitor acting on his behalf to the effect that if the accused is convicted in his absence of the offence charged he desires to admit failing to pay the other contributions or premiums so specified or any of them,section 151 above shall have effect as if the evidence had been given and the failure so admitted had been proved, and the court shall proceed accordingly.

In this subsection " prescribed " means prescribed by rules made under section 15 of the Justices of the Peace Act 1949.
- (2) In England and Wales, where a person is convicted of an offence to which section 150(1) or (2)(a) applies and an order is made under Part I of the Criminal Justice Act 1948 placing the offender on probation or discharging him absolutely or conditionally, sections 150 and 151 above, and subsection (1) of this section, shall apply as if it were a conviction for all purposes.
- (3) In Scotland, where a person is convicted on indictment of, or is charged before a court of summary jurisdiction with, any such offence, and an order is made under Part I of the Criminal Justice (Scotland) Act 1949 discharging him absolutely or placing him on probation, sections 150 and 151 above shall apply as if—
 - (a) the conviction on indictment were a conviction for all purposes; or
 - (b) (as the case may be) the making of the order by the court of summary jurisdiction were a conviction.
- (4) Where a body corporate fails to pay any sum which it is liable to pay under sections 150 and 151 and subsection (1) of this section, that sum (or such part of it as remains unpaid) shall be a debt due to the Secretary of State jointly and severally from any directors of the body corporate who knew, or could reasonably be expected to have known, of the failure to pay the contributions or premiums in question.
- (5) In England and Wales, any sum which a person is liable to pay under those provisions shall be recoverable from him as a penalty.
- (6) Sums recovered by the Secretary of State under those provisions, so far as representing contributions of any class payable under Part I of this Act, are to be treated for

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all purposes of this Act (including in particular the Treasury supplements and the application of section 134) as contributions of that class received by the Secretary of State.

- (7) Without prejudice to subsection (6) above, insofar as such sums represent primary Class 1 or Class 2 contributions, they are to be treated as contributions paid in respect of the person in respect of whom they were originally payable; and provisions of this Act relating to earnings factors shall apply accordingly.
- (8) Subsections (6) and (7) above, as they apply to sums recovered by the Secretary of State under the provisions mentioned in subsection (4), apply also to any sums recovered under paragraph 9 of Schedule 23 to the 1973 Act (recovery of contributions etc. for purposes of reserve scheme).

153 Priority in bankruptcy, etc.

- (1) Subject to and in accordance with Schedule 18 to this Act, the debts specified in subsection (2) of this section shall be included among those accorded priority under the relevant enactments specified in that Schedule (being enactments relating to personal insolvency, companies' winding-up and the remedies of debenture holders and chargees).
- (2) The debts referred to above are any sums owed on account of Class 1 contributions (primary or secondary) or Class 2 contributions payable in either case under this Act or the Social Security (Northern Ireland) Act 1975 in the period of 12 months immediately preceding the date of the relevant event (which expression has the meaning indicated by Schedule 18).
- (3) Any priority accorded by the enactments relating to personal insolvency which are specified in Schedule 18 to this Act to debts consisting of income tax assessed and unpaid shall be accorded, to the same extent and subject to the same limitations, to debts consisting of Class 4 contributions (under this Act or the Social Security (Northern Ireland) Act 1975) assessed and unpaid, so far as owed to the Inland Revenue and not to the Secretary of State or the Northern Ireland Department.