



Social Security Administration Act 1992

1992 CHAPTER 5

PART VI

ENFORCEMENT

Inspection and offences

110 Appointment and powers of inspectors

- (1) For the purposes of the Acts to which this section applies the Secretary of State may appoint such inspectors, and pay to them such salaries or remuneration, as he may determine with the consent of the Treasury.
- (2) An inspector appointed under this section shall, for the purposes of the execution of those Acts have the following powers—
 - (a) to enter at all reasonable times any premises liable to inspection under this section;
 - (b) to make such examination and inquiry as may be necessary—
 - (i) for ascertaining whether the provisions of the Acts are being, or have been, complied with in any such premises; or
 - (ii) for investigating the circumstances in which any accident, injury or disease which has given or may give rise to a claim for industrial injuries benefit, or for any benefit which is a relevant benefit, occurred or may have occurred, or was or may have been received or contracted;
 - (c) to examine, either alone or in the presence of any other person, as he thinks fit, in relation to any matters under the Acts on which he may reasonably require information, every person whom he finds in any such premises or whom he has reasonable cause to believe to be or to have been a person liable to pay—
 - (i) contributions under Part I of the Contributions and Benefits Act; or
 - (ii) a state scheme premium; or
 - (iii) a compensation payment or a relevant payment,

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- and to require every such person to be so examined;
- (d) to exercise such other powers as may be necessary for carrying the Acts into effect.
- (3) The premises liable to inspection under this section are any where an inspector has reasonable grounds for supposing that—
- (a) any persons are employed; or
 - (b) there is being carried on any agency or other business for the introduction or supply to persons requiring them of persons available to do work or to perform services; or
 - (c) a personal or occupational pension scheme is being administered; or
 - (d) any person—
 - (i) who is the compensator in relation to any such accident, injury or disease as is referred to in subsection (2)(b)(ii) above; or
 - (ii) on whose behalf any such compensator has or may have made, or may make, a compensation payment,
 carries on business or is to be found,
- but do not include any private dwelling-house not used by, or by permission of, the occupier for the purposes of a trade or business.
- (4) Every inspector shall be furnished with a certificate of his appointment, and on applying for admission to any premises for the purpose of the Acts shall, if so required, produce the certificate.
- (5) Where any premises are liable to be inspected by an inspector or officer appointed or employed by, or are under the control of, some other government department, the Secretary of State may make arrangements with that department for any of the powers or duties of inspectors under this section to be carried out by an inspector or officer employed by that department.
- (6) In accordance with this section, persons shall furnish to an inspector all such information, and produce for his inspection all such documents, as he may reasonably require for the purpose of ascertaining—
- (a) whether—
 - (i) any contribution under Part I of the Contributions and Benefits Act; or
 - (ii) any state scheme premium; or
 - (iii) any compensation payment or relevant payment,
 is or has been payable, or has been duly paid, by or in respect of any person; or
 - (b) whether benefit is or was payable to or in respect of any person.
- (7) The following persons are under the duty imposed by subsection (6) above—
- (a) the occupier of any premises liable to inspection under this section;
 - (b) any person who is or has been an employer or an employee within the meaning of any provision of the Contributions and Benefits Act;
 - (c) any person carrying on an agency or other business for the introduction or supply to persons requiring them of persons available to do work or to perform services;
 - (d) any person who is or has at any time been a trustee or manager of a personal or occupational pension scheme;
 - (e) any person who is or has been liable—

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- (i) to pay contributions or state scheme premiums; or
- (ii) to make any compensation payment or relevant payment;
- (f) the servants or agents of any such person as is specified in any of the preceding paragraphs,

but no one shall be required under this section to answer any questions or to give evidence tending to incriminate himself or, in the case of a person who is married, his or her spouse.

- (8) This section applies to the following Acts—
 - (a) the Social Security Act 1973;
 - (b) the Contributions and Benefits Act;
 - (c) this Act;
 - (d) the Pensions Act; and
 - (e) Part I of the 1986 Act.
- (9) In this section “relevant benefit” and “relevant payment” mean a relevant benefit and relevant payment within the meaning of Part IV of this Act.

111 Delay, obstruction etc. of inspector

- (1) If a person—
 - (a) intentionally delays or obstructs an inspector in the exercise of any power under this Act; or
 - (b) refuses or neglects to answer any question or to furnish any information or to produce any document when required to do so under this Act,he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) Where a person is convicted of an offence under subsection (1)(b) above and the refusal or neglect is continued by him after his conviction, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding £40 for each day on which it is continued.

112 False representations for obtaining benefit etc

- (1) If a person for the purpose of obtaining any benefit or other payment under the legislation to which section 110 above applies whether for himself or some other person, or for any other purpose connected with that legislation—
 - (a) makes a statement or representation which he knows to be false; or
 - (b) produces or furnishes, or knowingly causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in a material particular,he shall be guilty of an offence.
- (2) A person guilty of an offence under subsection (1) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale, or to imprisonment for a term not exceeding 3 months, or to both.

113 Breach of regulations

Regulations and schemes under any of the Acts to which section 110 above applies may provide for contravention of, or failure to comply with, any provision contained in regulations made under that Act to be an offence under that Act and for the recovery, on summary conviction of any such offence, of penalties not exceeding—

- (a) for any one offence, level 3 on the standard scale; or
- (b) for an offence of continuing any such contravention or failure after conviction, £40 for each day on which it is so continued.

114 Offences relating to contributions

- (1) If a person fails to pay, at or within the time prescribed for the purpose, any contribution which he is liable under Part I of the Contributions and Benefits Act to pay, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) If a person fails to pay at or within the time prescribed for the purpose any sums which he is required by regulations made by virtue of paragraph 6 of Schedule 1 to the Contributions and Benefits Act to pay, he shall be liable to be proceeded against and punished under subsection (1) above without proof of his failure so to pay any particular contribution.
- (3) Subsection (1) above does not apply to Class 4 contributions recoverable by the Inland Revenue.
- (4) If a person—
 - (a) buys, sells or offers for sale, takes or gives in exchange, or pawns or takes in pawn a contribution card or a used contribution stamp; or
 - (b) affixes a used contribution stamp to a contribution card,he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 3 months, or to both.
- (5) In any proceedings under subsection (4) above with respect to used stamps a stamp shall be deemed to have been used if it has been affixed to a contribution card or cancelled or defaced in any way whatsoever and whether or not it has actually been used for the payment of a contribution.
- (6) In this Act “contribution card” means any card issued under regulations for the purpose of payment of contributions by affixing stamps to it.

115 Offences by bodies corporate

- (1) Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and be liable to be proceeded against accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) above applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

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
 - (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.

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(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.

Unpaid contributions etc.

118 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 the Contributions and

Benefits 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.
- (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.

119 Recovery of unpaid contributions on prosecution

- (1) Where—
 - (a) a person has been convicted of an offence under section 114(1) above of failing to pay a contribution at or within the time prescribed for the purpose; and
 - (b) 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—
 - (i) under section 114(3)(b) above; or
 - (ii) under section 13 of the Stamp Duties Management Act 1891 as applied by regulations made under paragraph 7(3) of Schedule 1 to the Contributions and Benefits Act; or
 - (iii) of contravening or failing to comply with regulations; and

- (b) the evidence on which he is convicted shows that he, for the purposes 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.

120 Proof of previous offences

- (1) Subject to and in accordance with subsections (2) to (5) below, where a person is convicted of an offence mentioned in section 119(1) or (2)(a) above, evidence may be given of any previous failure by him to pay contributions 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 any Class 1A contributions or state scheme premiums on the date of the offence, or during the 2 years preceding that date.
- (4) If the offence is one of failure to pay Class 1A contribution, evidence may be given of failure on his part to pay (whether or not in respect of the same person or the same car) such contributions, or any Class 1 contributions or state scheme premiums, on the date of the offence, or during the 2 years preceding that date.
- (5) If the offence—
 - (a) is one of failure to pay Class 2 contributions; or
 - (b) is one of those mentioned in section 119(2)(a) above,
 evidence may be given of his failure to pay such contributions during those 2 years.
- (6) On proof of any matter of which evidence may be given under subsection (3), (4), or (5) above, the person convicted shall be liable to pay to the Secretary of State a sum equal to the total of all amounts which he is so proved to have failed to pay and which remain unpaid at the date of the conviction.

121 Unpaid contributions - supplementary

- (1) Where in England and Wales a person charged with an offence mentioned in section 119(1) or (2)(a) above is convicted of that offence in his absence under section 12(2) of the Magistrates' Courts Act 1980, then if—
 - (a) it is proved to the satisfaction of the court, on oath or in the manner prescribed by rules under section 144 of that Act, that notice under section 120(2) above has been duly served specifying the other contributions 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 so specified or any of them, section 120 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.

- (2) In England and Wales, where a person is convicted of an offence mentioned in section 119(1) or (2)(a) above and an order is made under Part I of the Powers of Criminal Courts Act 1973 placing the offender on probation or discharging him absolutely or conditionally, sections 119 and 120 above, and subsection (1) above, 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 Procedure (Scotland) Act 1975 discharging him absolutely or placing him on probation, sections 119 and 120 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) In England and Wales, any sum which a person is liable to pay under section 119 or 120 above or under subsection (1) above shall be recoverable from him as a penalty.
- (5) Sums recovered by the Secretary of State under the provisions mentioned in subsection (4) above, so far as representing contributions of any class, are to be treated for all purposes of the Contributions and Benefits Act and this Act (including in particular the application of section 162 below) as contributions of that class received by the Secretary of State.
- (6) Without prejudice to subsection (5) above, in so far 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 enactments relating to earnings factors shall apply accordingly.