

WELFARE REFORM ACT 2012

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5: Social security: General

Section 116: Civil penalties for incorrect statements and failures to disclose information

115C Incorrect statements etc

589. New *section 115C(1)* sets out the circumstances in which a penalty can be applied under section 115C. It applies to a person negligently giving incorrect statements or representations, or negligently giving information or evidence either in connection with a claim for, or an award of a benefit, when the person does not take reasonable steps to correct the error. The act or omission must have resulted in an overpayment of benefit which is not being dealt with through fraud action.
590. New *section 115C (2)* provides for the amount of the penalty to be prescribed in regulations. *Section 115C(2)(a)* provides that a penalty imposed under section 115C may be imposed on the person who acted negligently in the various ways set out in section 115C(1)(a). Alternatively, in the case of a claim for benefit made jointly, under *section 115C(2)(b)* the penalty may be imposed on the other member of the joint couple. This is, however, subject to the limitation in *section 115C(3)* that it cannot apply if the other member was not, and could not reasonably have been expected, to be aware that the negligent statement, representation or incorrect information had been given by the other person.
591. *Section 115C(4)* provides for the penalty to be recoverable from the person on whom it was imposed under section 115C(2). Sections 71ZC to 71ZE of SSAA inserted by section 105 provide powers to provide for different methods of recovery by way of deduction from benefit, deduction from earnings and court action. New *section 115C(5)* allows the appropriate authority referred to in new *section 115C (4)* to recover penalties by these means.
592. New *section 115C(6)* provides definitions of “appropriate authority”, “overpayment” and “relevant social security benefit” for the purposes of new sections 115C and 115D.