Draft Order laid before Parliament under section 190(1) of the Social Security Administration Act 1992, for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2015 No.

SOCIAL SECURITY

The Social Security (Penalty as Alternative to Prosecution) (Maximum Amount) Order 2015

Made - - - -	***
Coming into force - -	*1st April 2015*

The Secretary of State for Work and Pensions makes the following Order in exercise of the powers conferred by section 115A(3B)(b) and 189(4) of the Social Security Administration Act 1992**(a)**.

A draft of this order has been laid before Parliament in accordance with section 190(1) of that Act**(b)**, and approved by resolution of each House of Parliament.

Citation, commencement, interpretation and application

1.—(1) This Order may be cited as the Social Security (Penalty as Alternative to Prosecution) (Maximum Amount) Order 2015 and comes into force on 1st April 2015.

(2) In this Order "the 1992 Act" means the Social Security Administration Act 1992.

(3) The amendment made by article 2 applies only in relation to an act or omission referred to in paragraph (a) of section 115A(1) of the 1992 Act**(c)** which appears, to the Secretary of State or the authority mentioned in that subsection, to have occurred wholly on or after 1st April 2015.

Amended amount of maximum penalty

2. In section 115A(3)(b) of the 1992 Act (penalty as alternative to prosecution), for "£2000" substitute "£5000".

Signed by authority of the Secretary of State for Work and Pensions

Name
Minister of State
Date
Department for Work and Pensions

(**a**) 1992 c.5. Section 115A is inserted by section 15 of the Social Security Administration (Fraud) Act 1997 (c.47). Subsection (3) is substituted and subsections (3A) and (3B) inserted by section 114(1) of the Welfare Reform Act 2012 (c.5) ("the 2012 Act"). Section 189(4) is amended by paragraph 109(a) and (c) of Schedule 7, and Schedule 8, to the 1998 Act, and by S.I. 2013/252.

(**b**) Section 190(1)(zza) is inserted by section 114(2) of the 2012 Act.

(**c**) References in section 115A(1) to an authority (which refer to a local authority administering housing benefit or council tax benefit) are repealed by Part 1 of Schedule 14 to the 2012 Act, but those repeals are not yet fully in force.

EXPLANATORY NOTE

(This note is not part of the Order)

Article 2 increases the maximum amount of the penalty that may be offered as an alternative to prosecution, under section 115A(3)(b) of the Social Security Administration Act 1992 ("the 1992 Act"), from £2000 to £5000 with effect from 1st April 2015.

Such a penalty may be offered where an overpayment of benefit is recoverable from a person by (or due from a person to) the Secretary of State or an authority under section 71, 71ZB, 71A, 75 or 76 of the 1992 Act and it appears to the Secretary of State or authority that the making of the overpayment was attributable to an act or omission of that person, and that there are grounds for instituting proceedings against that person for an offence relating to the overpayment.

The amount of the penalty that can be offered under s115A(3) of the 1992 Act is 50% of the overpayment subject to a minimum of £350 and (where this Order applies) a maximum of £5,000.

The amendment made by this Order applies only in relation to an act or omission referred to in paragraph (a) of section 115A(1) of the 1992 Act which appears to the Secretary of State or authority to have occurred wholly on or after 1st April 2015.

A full impact assessment has not been produced for this instrument as it has no impact on business or civil society organisations.

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