

SOCIAL SECURITY FRAUD

Social Security Administration (NI) Act 1992

Dishonest Representations

105A. - (1) If a person dishonestly-

- (a) makes a false statement or representation; or
 - (b) produces or furnishes, or causes or allows to be produced or furnished, any document or information which is false in a material particular;
- with a view to obtaining any benefit or other payment or advantage under the relevant social security legislation (whether for himself or for some other person), he shall be guilty of an offence.

[See further s.105A(1A)-(1G) for similar offences]

False Representations

106. - (1) If a person for the purpose of obtaining any benefit or other payment under the relevant social security legislation, 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.

[See further s.106(1A)-(1G) for similar offences]

Maximum Sentence:

Dishonest Representations – s.105A(3)

Indictment: 7 years imprisonment or an unlimited fine or both

Summary: 6 months imprisonment or statutory maximum fine (£5,000) or both

False Representations – s.106(2)

Summary: 3 months imprisonment or a Level 5 fine (£5,000) or both

Assessment of Offence

(Starting points and ranges based on 1st time offender convicted following contest)

<u>Nature of Offence</u>	<u>Starting Point</u>	<u>Sentencing Range</u>
Offence under s.105A	Community Order	Fine to 6 months Custody
Offence under s.106	Community Order	Fine to 3 months Custody

<u>Examples of Possible Aggravating Factors of Offence</u>	<u>Examples of Possible Mitigating Factor of Offence</u>
<ol style="list-style-type: none"> 1. Offending carried out over a long period 2. Offender acting in unison with one or more others 3. Planning 4. Offender motivated by greed or desire to live beyond his/her means 5. High value of benefit received 6. False or forged documents used 7. Official documents altered or falsified 8. Claim fraudulent from the outset 	<ol style="list-style-type: none"> 1. Pressurised by others 2. Voluntary repayment of amounts overpaid

Relevant Cases:

NI Cases:

1. R v Duff (5 March 1991) (Unreported)
2. Brady [2011] NICA 4
3. R v Harkin and McCool [2015] NICA 31

English cases:

1. R v Stewart [1987] 1 WLR 559
2. R v Graham and Whatley [2005] 1 Cr App R(S) 115

Notes:

Where accused has not voluntarily repaid the monies the court may make a Restitution Order or Compensation Order.