



# Social Security Fraud Act 2001

## 2001 CHAPTER 11

### *Loss of benefit provisions*

#### **[<sup>F1</sup>6A Meaning of “disqualifying benefit” and “sanctionable benefit” for purposes of sections 6B and 7**

(1) In this section and sections 6B and 7—

“disqualifying benefit” means (subject to any regulations under section 10(1))—

- (a) any benefit under the Jobseekers Act 1995 or the Jobseekers (Northern Ireland) Order 1995;
- (b) any benefit under the State Pension Credit Act 2002 or the State Pension Credit Act (Northern Ireland) 2002;
- (c) any benefit under Part 1 of the Welfare Reform Act 2007 or Part 1 of the Welfare Reform Act (Northern Ireland) 2007 (employment and support allowance);
- (d) any benefit under the Social Security Contributions and Benefit Act 1992 or the Social Security Contributions and Benefits (Northern Ireland) Act 1992 other than—
  - (i) maternity allowance;
  - (ii) statutory sick pay and statutory maternity pay;
- (e) any war pension;

“sanctionable benefit” means (subject to subsection (2) and to any regulations under section 10(1)) any disqualifying benefit other than—

- (a) joint-claim jobseeker's allowance;
- (b) any retirement pension;
- (c) graduated retirement benefit;
- (d) disability living allowance;
- (e) attendance allowance;
- (f) child benefit;
- (g) guardian's allowance;

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- (h) a payment out of the social fund in accordance with Part 8 of the Social Security Contributions and Benefits Act 1992;
  - (i) a payment under Part 10 of that Act (Christmas bonuses).
- (2) In their application to Northern Ireland sections 6B and 7 shall have effect as if references to a sanctionable benefit were references only to a war pension.

#### Textual Amendments

**F1** Ss. 6A-6C inserted (12.1.2010 for specified purposes, 1.4.2010 in so far as not already in force) by [Welfare Reform Act 2009 \(c. 24\)](#), **ss. 24(1)**, 61(3); [S.I. 2010/45](#), [art. 2\(1\)\(2\)](#)

### **6B Loss of benefit in case of conviction, penalty or caution for benefit offence**

- (1) Subsection (4) applies where a person (“the offender”)—
- (a) is convicted of one or more benefit offences in any proceedings,
  - (b) after being given a notice under subsection (2) of the appropriate penalty provision by an appropriate authority, agrees in the manner specified by the appropriate authority to pay a penalty under the appropriate penalty provision to the appropriate authority by reference to an overpayment, in a case where the offence mentioned in subsection (1)(b) of the appropriate penalty provision is a benefit offence, or
  - (c) is cautioned in respect of one or more benefit offences.
- (2) In subsection (1)(b)—
- (a) “the appropriate penalty provision” means section 115A of the Administration Act (penalty as alternative to prosecution) or section 109A of the Social Security Administration (Northern Ireland) 1992 (the corresponding provision for Northern Ireland);
  - (b) “appropriate authority” means—
    - (i) in relation to section 115A of the Administration Act, the Secretary of State or an authority which administers housing benefit or council tax benefit, and
    - (ii) in relation to section 109A of the Social Security Administration (Northern Ireland) Act 1992, the Department (within the meaning of that Act) or the Northern Ireland Housing Executive.
- (3) Subsection (4) does not apply by virtue of subsection (1)(a) if, because the proceedings in which the offender was convicted constitute the later set of proceedings for the purposes of section 7, the restriction in subsection (2) of that section applies in the offender's case.
- (4) If this subsection applies and the offender is a person with respect to whom the conditions for an entitlement to a sanctionable benefit are or become satisfied at any time within the disqualification period, then, even though those conditions are satisfied, the following restrictions shall apply in relation to the payment of that benefit in the offender's case.
- (5) Subject to subsections (6) to (10), the sanctionable benefit shall not be payable in the offender's case for any period comprised in the disqualification period.

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- (6) Where the sanctionable benefit is income support, the benefit shall be payable in the offender's case for any period comprised in the disqualification period as if the applicable amount used for the determination under section 124(4) of the Social Security Contributions and Benefits Act 1992 of the amount of the offender's entitlement for that period were reduced in such manner as may be prescribed.
- (7) The Secretary of State may by regulations provide that, where the sanctionable benefit is jobseeker's allowance, any income-based jobseeker's allowance shall be payable, during the whole or a part of any period comprised in the disqualification period, as if one or more of the following applied—
- (a) the rate of the allowance were such reduced rate as may be prescribed;
  - (b) the allowance were payable only if there is compliance by the offender with such obligations with respect to the provision of information as may be imposed by the regulations;
  - (c) the allowance were payable only if the circumstances are otherwise such as may be prescribed.
- (8) The Secretary of State may by regulations provide that, where the sanctionable benefit is state pension credit, the benefit shall be payable in the offender's case for any period comprised in the disqualification period as if the rate of the benefit were reduced in such manner as may be prescribed.
- (9) The Secretary of State may by regulations provide that, where the sanctionable benefit is employment and support allowance, any income-related allowance shall be payable, during the whole or a part of any period comprised in the disqualification period, as if one or more of the following applied—
- (a) the rate of the allowance were such reduced rate as may be prescribed;
  - (b) the allowance were payable only if there is compliance by the offender with such obligations with respect to the provision of information as may be imposed by the regulations;
  - (c) the allowance were payable only if the circumstances are otherwise such as may be prescribed.
- (10) The Secretary of State may by regulations provide that, where the sanctionable benefit is housing benefit or council tax benefit, the benefit shall be payable, during the whole or a part of any period comprised in the disqualification period, as if one or more of the following applied—
- (a) the rate of the benefit were reduced in such manner as may be prescribed;
  - (b) the benefit were payable only if the circumstances are such as may be prescribed.
- (11) For the purposes of this section the disqualification period, in relation to any disqualifying event, means the period of four weeks beginning with such date, falling after the date of the disqualifying event, as may be determined by or in accordance with regulations made by the Secretary of State.
- (12) This section has effect subject to section 6C.
- (13) In this section and section 6C—
- “benefit offence” means—
  - (a) any post-commencement offence in connection with a claim for a disqualifying benefit;

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- (b) any post-commencement offence in connection with the receipt or payment of any amount by way of such a benefit;
- (c) any post-commencement offence committed for the purpose of facilitating the commission (whether or not by the same person) of a benefit offence;
- (d) any post-commencement offence consisting in an attempt or conspiracy to commit a benefit offence;

“disqualifying event” means the conviction falling within subsection (1)(a), the agreement falling within subsection (1)(b) or the caution falling within subsection (1)(c);

“post-commencement offence” means any criminal offence committed after the commencement of this section.

#### Textual Amendments

**F1** Ss. 6A-6C inserted (12.1.2010 for specified purposes, 1.4.2010 in so far as not already in force) by Welfare Reform Act 2009 (c. 24), ss. 24(1), 61(3); S.I. 2010/45, art. 2(1)(2)

### 6C Section 6B: supplementary provisions

- (1) Where—
  - (a) the conviction of any person of any offence is taken into account for the purposes of the application of section 6B in relation to that person, and
  - (b) that conviction is subsequently quashed,
 all such payments and other adjustments shall be made as would be necessary if no restriction had been imposed by or under section 6B that could not have been imposed if the conviction had not taken place.
- (2) Where, after the agreement of any person (“P”) to pay a penalty under the appropriate penalty provision is taken into account for the purposes of the application of section 6B in relation to that person—
  - (a) P’s agreement to pay the penalty is withdrawn under subsection (5) of the appropriate penalty provision, or
  - (b) it is decided on an appeal or in accordance with regulations under the Social Security Act 1998 or the Social Security (Northern Ireland) Order 1998 that the overpayment to which the agreement relates is not recoverable or due,
 all such payments and other adjustments shall be made as would be necessary if no restriction had been imposed by or under section 6B that could not have been imposed if P had not agreed to pay the penalty.
- (3) Where, after the agreement (“the old agreement”) of any person (“P”) to pay a penalty under the appropriate penalty provision is taken into account for the purposes of the application of section 6B in relation to P, the amount of the overpayment to which the penalty relates is revised on an appeal or in accordance with regulations under the Social Security Act 1998 or the Social Security (Northern Ireland) Order 1998—
  - (a) section 6B shall cease to apply by virtue of the old agreement, and
  - (b) subsection (4) shall apply.
- (4) Where this subsection applies—
  - (a) if there is a new disqualifying event consisting of—

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- (i) P's agreement to pay a penalty under the appropriate penalty provision in relation to the revised overpayment, or
  - (ii) P being cautioned in relation to the offence to which the old agreement relates,
- the disqualification period relating to the new disqualifying event shall be reduced by the number of days in so much of the disqualification period relating to the old agreement as had expired when section 6B ceased to apply by virtue of the old agreement, and
- (b) in any other case, all such payments and other adjustments shall be made as would be necessary if no restriction had been imposed by or under section 6B that could not have been imposed if P had not agreed to pay the penalty.
- (5) For the purposes of section 6B—
- (a) the date of a person's conviction in any proceedings of a benefit offence shall be taken to be the date on which the person was found guilty of that offence in those proceedings (whenever the person was sentenced) or in the case mentioned in paragraph (b)(ii) the date of the order for absolute discharge; and
  - (b) references to a conviction include references to—
    - (i) a conviction in relation to which the court makes an order for absolute or conditional discharge [<sup>F2</sup>or a court in Scotland makes a probation order],
    - (ii) an order for absolute discharge made by a court of summary jurisdiction in Scotland under section 246(3) of the Criminal Procedure (Scotland) Act 1995 without proceeding to a conviction, and
    - (iii) a conviction in Northern Ireland.
- (6) In this section “ the appropriate penalty provision ” has the meaning given by section 6B(2)(a). ]

#### Textual Amendments

- F1** Ss. 6A-6C inserted (12.1.2010 for specified purposes, 1.4.2010 in so far as not already in force) by [Welfare Reform Act 2009 \(c. 24\)](#), **ss. 24(1)**, 61(3); S.I. 2010/45, art. 2(1)(2)
- F2** Words in s. 6C(5)(b)(i) repealed (S.) (1.2.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), s. 206(1), **Sch. 2 para. 45(2)**; S.S.I. 2010/413, art. 2, Sch. (with art. 3(1))

## 7 **Loss of benefit for [<sup>F3</sup>second or subsequent conviction of benefit offence]**

- (1) If—
- (a) a person (“the offender”) is convicted of one or more benefit offences in each of two separate sets of proceedings,
  - (b) the benefit offence, or one of the benefit offences, of which he is convicted in the later proceedings is one committed within the period of [<sup>F4</sup>five years] after the date, or any of the dates, on which he was convicted of a benefit offence in the earlier proceedings,
  - (c) the later set of proceedings has not been taken into account for the purposes of any previous application of this section or section 8 or 9 in relation to the offender or any person who was then a member of his family,

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- (d) the earlier set of proceedings has not been taken into account as the earlier set of proceedings for the purposes of any previous application of this section or either of those sections in relation to the offender or any person who was then a member of his family, and
- (e) the offender is a person with respect to whom the conditions for an entitlement to a sanctionable benefit are or become satisfied at any time within the disqualification period,

then, even though those conditions are satisfied, the following restrictions shall apply in relation to the payment of that benefit in the offender's case.

- (2) Subject to subsections (3) to (5), the sanctionable benefit shall not be payable in the offender's case for any period comprised in the disqualification period.
- (3) Where the sanctionable benefit is income support, the benefit shall be payable in the offender's case for any period comprised in the disqualification period as if the applicable amount used for the determination under section 124(4) of the Social Security Contributions and Benefits Act 1992 (c. 4) of the amount of the offender's entitlement for that period were reduced in such manner as may be prescribed.
- (4) The Secretary of State may by regulations provide that, where the sanctionable benefit is jobseeker's allowance, any income-based jobseeker's allowance shall be payable, during the whole or a part of any period comprised in the disqualification period, as if one or more of the following applied—
  - (a) the rate of the allowance were such reduced rate as may be prescribed;
  - (b) the allowance were payable only if there is compliance by the offender with such obligations with respect to the provision of information as may be imposed by the regulations;
  - (c) the allowance were payable only if the circumstances are otherwise such as may be prescribed.

[<sup>F5</sup>(4A) The Secretary of State may by regulations provide that, where the sanctionable benefit is state pension credit, the benefit shall be payable in the offender's case for any period comprised in the disqualification period as if the rate of the benefit were reduced in such manner as may be prescribed.]

[<sup>F6</sup>(4B) The Secretary of State may by regulations provide that, where the sanctionable benefit is employment and support allowance, any income-related allowance shall be payable, during the whole or a part of any period comprised in the disqualification period, as if one or more of the following applied—

- (a) the rate of the allowance were such reduced rate as may be prescribed;
- (b) the allowance were payable only if there is compliance by the offender with such obligations with respect to the provision of information as may be imposed by the regulations;
- (c) the allowance were payable only if the circumstances are otherwise such as may be prescribed.]

- (5) The Secretary of State may by regulations provide that, where the sanctionable benefit is housing benefit or council tax benefit, the benefit shall be payable, during the whole or a part of any period comprised in the disqualification period, as if one or both of the following applied—
  - (a) the rate of the benefit were reduced in such manner as may be prescribed;
  - (b) the benefit were payable only if the circumstances are such as may be prescribed.

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- (6) For the purposes of this section the disqualification period, in relation to the conviction of a person of one or more benefit offences in each of two separate sets of proceedings, means the period of thirteen weeks beginning with such date, falling after the date of the conviction in the later set of proceedings, as may be determined by or in accordance with regulations made by the Secretary of State.
- (7) Where—
- (a) the conviction of any person of any offence is taken into account for the purposes of the application of this section in relation to that person, and
  - (b) that conviction is subsequently quashed,
- all such payments and other adjustments shall be made as would be necessary if no restriction had been imposed by or under this section that could not have been imposed if the conviction had not taken place.
- (8) In this section—
- “benefit offence” means—
- (a) any post-commencement offence in connection with a claim for a disqualifying benefit;
  - (b) any post-commencement offence in connection with the receipt or payment of any amount by way of such a benefit;
  - (c) any post-commencement offence committed for the purpose of facilitating the commission (whether or not by the same person) of a benefit offence;
  - (d) any post-commencement offence consisting in an attempt or conspiracy to commit a benefit offence;
- [<sup>F7</sup> “post-commencement offence” means an offence committed on or after 1 April 2002 (the day on which this section came into force). ]
- <sup>F8</sup> ...
- <sup>F8</sup> ...
- (9) For the purposes of this section—
- (a) the date of a person’s conviction in any proceedings of a benefit offence shall be taken to be the date on which he was found guilty of that offence in those proceedings (whenever he was sentenced) [<sup>F9</sup> or in the case mentioned in paragraph (b)(ii) the date of the order for absolute discharge]; and
  - [<sup>F10</sup>(b) references to a conviction include references to—
    - (i) a conviction in relation to which the court makes an order for absolute or conditional discharge [<sup>F11</sup> or a court in Scotland makes a probation order],
    - (ii) an order for absolute discharge made by a court of summary jurisdiction in Scotland under section 246(3) of the Criminal Procedure (Scotland) Act 1995 without proceeding to a conviction, and
    - (iii) a conviction in Northern Ireland.
- (10) In this section references to any previous application of this section or section 8 or 9—
- (a) include references to any previous application of a provision having an effect in Northern Ireland corresponding to provision made by this section, or either of those sections; but

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- (b) do not include references to any previous application of this section, or of either of those sections, the effect of which was to impose a restriction for a period comprised in the same disqualification period.

<sup>F12</sup>( 11 ) . . . . . ]

#### Textual Amendments

- F3** Words in s. 7 heading substituted (12.1.2010 for specified purposes) by [Welfare Reform Act 2009 \(c. 24\)](#), s. 61(3), [Sch. 4 para. 2\(5\)](#); S.I. 2010/45, art. 2(1)
- F4** Words in s. 7(1)(b) substituted (1.4.2008) by [Welfare Reform Act 2007 \(c. 5\)](#), [ss. 49\(1\)](#), 70(2) (with s. 49(2)); S.I. 2008/787, art. 2(2)
- F5** S. 7(4A) inserted (2.7.2002 for the purpose of making regulations, 6.10.2003 in so far as not already in force) by [2002 c. 16](#), s. 14, [Sch. 2 Pt. 3 para. 45\(2\)](#); S.I. 2002/1691, [art. 2](#); S.I. 2003/1766, art. 2(a)
- F6** S. 7(4B) inserted (18.3.2008 for specified purposes, 27.10.2008 in so far as not already in force) by [Welfare Reform Act 2007 \(c. 5\)](#), s. 70(2), [Sch. 3 para. 23\(2\)](#); S.I. 2008/787, art. 2(1)(4)(f), [Sch.](#)
- F7** Words in s. 7(8) inserted (12.1.2010 for specified purposes) by [Welfare Reform Act 2009 \(c. 24\)](#), s. 61(3), [Sch. 4 para. 2\(2\)\(a\)](#); S.I. 2010/45, art. 2(1)
- F8** Words in s. 7(8) repealed (12.1.2010 for specified purposes) by [Welfare Reform Act 2009 \(c. 24\)](#), s. 61(3), [Sch. 4 para. 2\(2\)\(b\)](#), [7 Pt. 4](#); S.I. 2010/45, art. 2(1)
- F9** Words in s. 7(9)(a) inserted (12.1.2010 for specified purposes) by [Welfare Reform Act 2009 \(c. 24\)](#), s. 61(3), [Sch. 4 para. 2\(3\)\(a\)](#); S.I. 2010/45, art. 2(1)
- F10** S. 7(9)(b) substituted (12.1.2010 for specified purposes) by [Welfare Reform Act 2009 \(c. 24\)](#), s. 61(3), [Sch. 4 para. 2\(3\)\(b\)](#); S.I. 2010/45, art. 2(1)
- F11** Words in s. 7(9)(b) repealed (S.) (1.2.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), s. 206(1), [Sch. 2 para. 45\(3\)](#); S.S.I. 2010/413, art. 2, [Sch. \(with art. 3\(1\)\)](#)
- F12** S. 7(11) repealed (12.1.2010 for specified purposes) by [Welfare Reform Act 2009 \(c. 24\)](#), s. 61(3), [Sch. 4 para. 2\(4\)](#), [7 Pt. 4](#); S.I. 2010/45, art. 2(1)

#### Modifications etc. (not altering text)

- C1** S. 7 restricted (1.4.2002) by [S.I. 2001/4022](#), [reg. 20](#)
- C2** S. 7(2) excluded (1.4.2002) by [S.I. 2001/4022](#), [regs. 6\(2\)](#), 7(2)
- C3** S. 7(9) applied (1.4.2002) by [S.I. 2001/4022](#), [reg. 2\(2\)](#)

#### Commencement Information

- I1** S. 7 wholly in force at 1.4.2002; s. 7 not in force at Royal Assent see s. 20; s. 7 in force for specified purposes at 17.11.2001 and wholly in force at 1.4.2002 by [S.I. 2001/3689](#), [art. 2\(1\)\(a\)\(b\)](#)

## 8 Effect of offence on joint-claim jobseeker's allowance

- (1) Subsections (2) and (3) shall have effect, subject to the other provisions of this section, where—
- (a) the conditions for the entitlement of any joint-claim couple to a joint-claim jobseeker's allowance are or become satisfied at any time; and
- (b) [<sup>F13</sup>an offence-related restriction] would apply in the case of at least one of the members of the couple if the entitlement were an entitlement of that member to a sanctionable benefit.

[<sup>F14</sup>(1A) In this section—

- (a) “ an offence-related restriction ” means the restriction in subsection (5) of section 6B or the restriction in subsection (2) of section 7, and



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- (b) in relation to an offence-related restriction, any reference to the relevant period is a reference to a period which is the disqualification period for the purposes of section 6B or section 7, as the case requires.]
- (2) The allowance shall not be payable in the couple's case for so much of any period comprised in [<sup>F15</sup>the relevant period] as is a period for which—
  - (a) in the case of each of the members of the couple, [<sup>F16</sup>an offence-related restriction] would apply if the entitlement were an entitlement of that member to a sanctionable benefit; or
  - (b) [<sup>F17</sup>an offence-related restriction] would so apply in the case of one of the members of the couple and the other member of the couple—
    - (i) is [<sup>F18</sup>(or is treated as being)] subject to sanctions for the purposes of section 20A of the Jobseekers Act 1995 (c. 18) (denial or reduction of joint-claim jobseeker's allowance); or
    - <sup>F19</sup>(ii) .....
- (3) For any part of any period comprised in [<sup>F20</sup>the relevant period] for which subsection (2) does not apply, the allowance—
  - (a) shall be payable in the couple's case as if the amount of the allowance were reduced to an amount calculated using the method prescribed for the purposes of this subsection; but
  - (b) shall be payable only to the member of the couple who is not the person by reference to whose [<sup>F21</sup>conduct section 6B or 7] would apply.
- (4) The Secretary of State may by regulations provide in relation to cases to which subsection (2) would otherwise apply that joint-claim jobseeker's allowance shall be payable in a couple's case, during the whole or a part of so much of any period comprised in [<sup>F22</sup>the relevant period] as falls within paragraph (a) or (b) of that subsection, as if one or more of the following applied—
  - (a) the rate of the allowance were such reduced rate as may be prescribed;
  - (b) the allowance were payable only if there is compliance by each of the members of the couple with such obligations with respect to the provision of information as may be imposed by the regulations;
  - (c) the allowance were payable only if the circumstances are otherwise such as may be prescribed.
- (5) Subsection (6) of section 20A of the Jobseekers Act 1995 (c. 18) (calculation of reduced amount) shall apply for the purposes of subsection (3) above as it applies for the purposes of subsection (5) of that section.
- (6) Where—
  - (a) the conviction of any member of a couple for any offence is taken into account for the purposes of the application of this section in relation to that couple, and
  - (b) that conviction is subsequently quashed,all such payments and other adjustments shall be made as would be necessary if no restriction had been imposed by or under this section that could not have been imposed had the conviction not taken place.
- <sup>F23</sup>(7) Where, after the agreement of any member of a couple ("M") to pay a penalty under the appropriate penalty provision is taken into account for the purposes of any restriction imposed by virtue of any regulations under this section—

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- (a) M's agreement to pay the penalty is withdrawn under subsection (5) of the appropriate penalty provision, or
  - (b) it is decided on an appeal or in accordance with regulations under the Social Security Act 1998 or the Social Security (Northern Ireland) Order 1998 that the overpayment to which the agreement relates is not recoverable or due,
- all such payments and other adjustments shall be made as would be necessary if no restriction had been imposed by or under this section that could not have been imposed had M not agreed to pay the penalty.
- (8) Where, after the agreement (“ the old agreement ”) of any member of a couple (“M”) to pay a penalty under the appropriate penalty provision is taken into account for the purposes of any restriction imposed by virtue of any regulations under this section, the amount of the overpayment to which the penalty relates is revised on an appeal or in accordance with regulations under the Social Security Act 1998 or the Social Security (Northern Ireland) Order 1998—
- (a) if there is a new disqualifying event for the purposes of section 6B consisting of M's agreement to pay a penalty under the appropriate penalty provision in relation to the revised overpayment or M being cautioned in relation to the offence to which the old agreement relates, the new disqualification period for the purposes of section 6B falls to be determined in accordance with section 6C(4)(a), and
  - (b) in any other case, all such payments and other adjustments shall be made as would be necessary if no restriction had been imposed by or under this section that could not have been imposed had M not agreed to pay the penalty.
- (9) In this section “ the appropriate penalty provision ” has the meaning given by section 6B(2)(a). ]

#### Textual Amendments

- F13** Words in s. 8(1)(b) substituted (12.1.2010 for specified purposes, 1.4.2010 in so far as not already in force) by [Welfare Reform Act 2009 \(c. 24\)](#), s. 61(3), [Sch. 4 para. 3\(2\)](#); S.I. 2010/45, art. 2(1)(2)
- F14** [S. 8\(1A\)](#) inserted (12.1.2010 for specified purposes, 1.4.2010 in so far as not already in force) by [Welfare Reform Act 2009 \(c. 24\)](#), s. 61(3), [Sch. 4 para. 3\(3\)](#); S.I. 2010/45, art. 2(1)(2)
- F15** Words in s. 8(2) substituted (12.1.2010 for specified purposes, 1.4.2010 in so far as not already in force) by [Welfare Reform Act 2009 \(c. 24\)](#), s. 61(3), [Sch. 4 para. 3\(4\)\(a\)](#); S.I. 2010/45, art. 2(1)(2)
- F16** Words in s. 8(2)(a) substituted (12.1.2010 for specified purposes, 1.4.2010 in so far as not already in force) by [Welfare Reform Act 2009 \(c. 24\)](#), s. 61(3), [Sch. 4 para. 3\(4\)\(b\)](#); S.I. 2010/45, art. 2(1)(2)
- F17** Words in s. 8(2)(b) substituted (12.1.2010 for specified purposes, 1.4.2010 in so far as not already in force) by [Welfare Reform Act 2009 \(c. 24\)](#), s. 61(3), [Sch. 4 para. 3\(4\)\(c\)](#); S.I. 2010/45, art. 2(1)(2)
- F18** Words in s. 8(2)(b)(i) inserted (12.11.2009) by [Welfare Reform Act 2009 \(c. 24\)](#), [ss. 1\(5\)](#), 61(1)
- F19** [S. 8\(2\)\(b\)\(ii\)](#) repealed (22.3.2010) by [Welfare Reform Act 2009 \(c. 24\)](#), s. 61(3), [Sch. 7 Pt. 3](#); S.I. 2010/293, art. 2(3)(b) (with art. 2(4))
- F20** Words in s. 8(3) substituted (12.1.2010 for specified purposes, 1.4.2010 in so far as not already in force) by [Welfare Reform Act 2009 \(c. 24\)](#), s. 61(3), [Sch. 4 para. 3\(5\)\(a\)](#); S.I. 2010/45, art. 2(1)(2)
- F21** Words in s. 8(3)(b) substituted (12.1.2010 for specified purposes, 1.4.2010 in so far as not already in force) by [Welfare Reform Act 2009 \(c. 24\)](#), s. 61(3), [Sch. 4 para. 3\(5\)\(b\)](#); S.I. 2010/45, art. 2(1)(2)
- F22** Words in s. 8(4) substituted (12.1.2010 for specified purposes, 1.4.2010 in so far as not already in force) by [Welfare Reform Act 2009 \(c. 24\)](#), s. 61(3), [Sch. 4 para. 3\(6\)](#); S.I. 2010/45, art. 2(1)(2)
- F23** [S. 8\(7\)-\(9\)](#) inserted (12.1.2010 for specified purposes, 1.4.2010 in so far as not already in force) by [Welfare Reform Act 2009 \(c. 24\)](#), s. 61(3), [Sch. 4 para. 3\(7\)](#); S.I. 2010/45, art. 2(1)(2)

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#### **Modifications etc. (not altering text)**

- C4** S. 8 restricted (1.4.2002) by [S.I. 2001/4022, reg. 20](#)  
**C5** S. 8(2)(3) excluded (1.4.2002) by [S.I. 2001/4022, regs. 12\(2\), 13\(2\)](#)

#### **Commencement Information**

- I2** S. 8 wholly in force at 1.4.2002; s. 8 not in force at Royal Assent see s. 20; s. 8 in force for specified purposes at 17.11.2001 and wholly in force at 1.4.2002 by [S.I. 2001/3689, art. 2\(1\)\(a\)\(b\)](#)

## **9 Effect of offence on benefits for members of offender's family**

- (1) This section applies to—
- (a) income support;
  - (b) jobseeker's allowance;
  - <sup>F24</sup>(bb) state pension credit;
  - <sup>F25</sup>(bc) employment and support allowance;
  - (c) housing benefit; and
  - (d) council tax benefit.
- (2) The Secretary of State may by regulations make provision in accordance with the following provisions of this section in relation to any case in which—
- (a) the conditions for entitlement to any benefit to which this section applies are or become satisfied in the case of any person (“the offender's family member”);
  - (b) that benefit falls to be paid in that person's case for the whole or any part of a period comprised in a period (“the relevant period”) which is the disqualification period in relation to restrictions imposed under <sup>F26</sup>section 6B or 7] in the case of a member of that person's family; or
  - (c) that member of that family (“the offender”) is a person by reference to whom—
    - (i) the conditions for the entitlement of the offender's family member to the benefit in question are satisfied; or
    - (ii) the amount of benefit payable in the case of the offender's family member would fall (apart from any provision made under this section) to be determined.
- (3) In relation to cases in which the benefit is income support, the provision that may be made by virtue of subsection (2) is provision that, in the case of the offender's family member, the benefit shall be payable for the whole or any part of any period comprised in the relevant period as if the applicable amount used for the determination under section 124(4) of the Social Security Contributions and Benefits Act 1992 (c. 4) of the amount of the offender's entitlement for that period were reduced in such manner as may be prescribed.
- (4) In relation to cases in which the benefit is jobseeker's allowance, the provision that may be made by virtue of subsection (2) is provision that, in the case of the offender's family member, any income-based jobseeker's allowance shall be payable, during the whole or a part of any period comprised in the relevant period, as if one or more of the following applied—
- (a) the rate of the allowance were such reduced rate as may be prescribed;

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- (b) the allowance were payable only if there is compliance by the offender or the offender's family member, or both of them, with such obligations with respect to the provision of information as may be imposed by the regulations;
  - (c) the allowance were payable only if the circumstances are otherwise such as may be prescribed.
- [<sup>F27</sup>(4A) In relation to cases in which the benefit is state pension credit, the provision that may be made by virtue of subsection (2) is provision that, in the case of the offender's family member, the benefit shall be payable for the whole or any part of any period comprised in the relevant period as if the rate of the benefit were reduced in such manner as may be prescribed.]
- [<sup>F28</sup>(4B) In relation to cases in which the benefit is employment and support allowance, the provision that may be made by virtue of subsection (2) is provision that, in the case of the offender's family member, any income-related allowance shall be payable, during the whole or a part of any period comprised in the relevant period, as if one or more of the following applied—
- (a) the rate of the allowance were such reduced rate as may be prescribed;
  - (b) the allowance were payable only if there is compliance by the offender or the offender's family member, or both of them, with such obligations with respect to the provision of information as may be imposed by the regulations;
  - (c) the allowance were payable only if circumstances are otherwise such as may be prescribed.]
- (5) In relation to cases in which the benefit is housing benefit or council tax benefit, the provision that may be made by virtue of subsection (2) is provision that, in the case of the offender's family member, the benefit shall be payable, during the whole or a part of any period comprised in the relevant period, as if one or both of the following applied—
- (a) the rate of the benefit were reduced in such manner as may be prescribed;
  - (b) the benefit were payable only if the circumstances are such as may be prescribed.
- (6) Where—
- (a) the conviction of any member of a person's family for any offence is taken into account for the purposes of any restriction imposed by virtue of any regulations under this section, and
  - (b) that conviction is subsequently quashed,
- all such payments and other adjustments shall be made in that person's case as would be necessary if no restriction had been imposed that could not have been imposed had the conviction not taken place.
- [<sup>F29</sup>(7) Where, after the agreement of any member of a person's family ("M") to pay a penalty under the appropriate penalty provision is taken into account for the purposes of any restriction imposed by virtue of any regulations under this section—
- (a) M's agreement to pay the penalty is withdrawn under subsection (5) of the appropriate penalty provision, or
  - (b) it is decided on an appeal or in accordance with regulations under the Social Security Act 1998 or the Social Security (Northern Ireland) Order 1998 that the overpayment to which the agreement relates is not recoverable or due,

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all such payments and other adjustments shall be made as would be necessary if no restriction had been imposed that could not have been imposed had M not agreed to pay the penalty.

(8) Where, after the agreement (“the old agreement”) of any member of a person's family (“M”) to pay a penalty under the appropriate penalty provision is taken into account for the purposes of any restriction imposed by virtue of any regulations under this section, the amount of the overpayment to which the penalty relates is revised on an appeal or in accordance with regulations under the Social Security Act 1998 or the Social Security (Northern Ireland) Order 1998—

- (a) if there is a new disqualifying event for the purposes of section 6B consisting of M's agreement to pay a penalty under the appropriate penalty provision in relation to the revised overpayment or M being cautioned in relation to the offence to which the old agreement relates, the new disqualification period for the purposes of section 6B falls to be determined in accordance with section 6C(4)(a), and
- (b) in any other case, all such payments and other adjustments shall be made as would be necessary if no restriction had been imposed by or under this section that could not have been imposed had M not agreed to pay the penalty.

(9) In this section “the appropriate penalty provision” has the meaning given by section 6B(2)(a).]

#### Textual Amendments

- F24** S. 9(1)(bb) inserted (2.7.2002 for the purpose of making regulations, 6.10.2003 in so far as not already in force) by 2002 c. 16, s. 14, **Sch. 2 Pt. 3 para. 46(2)**; S.I. 2002/1691, **art. 2**; S.I. 2003/1766, **art. 2(a)**
- F25** S. 9(1)(bc) inserted (18.3.2008 for specified purposes, 27.10.2008 in so far as not already in force) by **Welfare Reform Act 2007 (c. 5), s. 70(2), Sch. 3 para. 23(4)**; S.I. 2008/787, **art. 2(1)(4)(f), Sch.**
- F26** Words in s. 9(2)(b) substituted (12.1.2010 for specified purposes, 1.4.2010 in so far as not already in force) by **Welfare Reform Act 2009 (c. 24), s. 61(3), Sch. 4 para. 4(2)**; S.I. 2010/45, **art. 2(1)(2)**
- F27** S. 9(4A) inserted (2.7.2002 for the purpose of making regulations, 6.10.2003 in so far as not already in force) by 2002 c. 16, s. 14, **Sch. 2 Pt. 3 para. 46(3)**; S.I. 2002/1961, **art. 2**; S.I. 2003/1766, **art. 2(a)**
- F28** S. 9(4B) inserted (18.3.2008 for specified purposes, 27.10.2008 in so far as not already in force) by **Welfare Reform Act 2007 (c. 5), s. 70(2), Sch. 3 para. 23(5)**; S.I. 2008/787, **art. 2(1)(4)(f), Sch.**
- F29** S. 9(7)-(9) inserted (12.1.2010 for specified purposes, 1.4.2010 in so far as not already in force) by **Welfare Reform Act 2009 (c. 24), s. 61(3), Sch. 4 para. 4(3)**; S.I. 2010/45, **art. 2(1)(2)**

#### Modifications etc. (not altering text)

- C6** S. 9 excluded (1.4.2002) by S.I. 2001/4022, **regs. 6(2), 7(2)**  
S. 9 restricted (1.4.2002) by S.I. 2001/4022, **reg. 20**

#### Commencement Information

- I3** S. 9 wholly in force at 1.4.2002; s. 9 not in force at Royal Assent see s. 20; s. 9 in force for specified purposes at 17.11.2001 and wholly in force at 1.4.2002 by S.I. 2001/3689, **art. 2(1)(a)(b)**

## 10 Power to supplement and mitigate loss of benefit provisions

(1) The Secretary of State may by regulations provide for any social security benefit to be treated for the purposes of [F30 sections 6A to 9]—

- (a) as a disqualifying benefit but not a sanctionable benefit; or

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- (b) as neither a sanctionable benefit nor a disqualifying benefit.
- (2) The Secretary of State may by regulations provide for any restriction in section<sup>[F31]</sup>6B,] 7, 8 or 9 not to apply in relation to payments of benefit to the extent of any deduction that (if any payment were made) would fall, in pursuance of provision made by or under any enactment, to be made from the payments and paid to a person other than the offender or, as the case may be, a member of his family.
- (3) In this section “social security benefit” means—
- (a) any benefit under the Social Security Contributions and Benefits Act 1992 (c. 4) or the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7);<sup>F32</sup>...
  - (b) any benefit under the Jobseekers Act 1995 (c. 18) or the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15));
  - <sup>[F33]</sup>(bb) any benefit under the State Pension Credit Act 2002 or under any provision having effect in Northern Ireland corresponding to that Act; or]
  - <sup>[F34]</sup>(bc) any benefit under Part 1 of the Welfare Reform Act 2007 (employment and support allowance) or under any provision having effect in Northern Ireland corresponding to that Part;]
  - (c) any war pension.

#### Textual Amendments

- F30** Words in s. 10(1) substituted (12.1.2010 for specified purposes, 1.4.2010 in so far as not already in force) by [Welfare Reform Act 2009 \(c. 24\)](#), s. 61(3), [Sch. 4 para. 5\(2\)](#); S.I. 2010/45, art. 2(1)(2)
- F31** Word in s. 10(2) inserted (12.1.2010 for specified purposes, 1.4.2010 in so far as not already in force) by [Welfare Reform Act 2009 \(c. 24\)](#), s. 61(3), [Sch. 4 para. 5\(3\)](#); S.I. 2010/45, art. 2(1)(2)
- F32** Word in s. 10(3) repealed (6.10.2003) by [State Pension Credit Act 2002 \(c. 16\)](#), s. 22(3), [Sch. 3](#); S.I. 2003/1766, art. 2(a)
- F33** S. 10(3)(bb) inserted (2.7.2002 for the purpose of making regulations, 6.10.2003 in so far as not already in force) by [2002 c. 16](#), ss. 14, 22, [Sch. 2](#), para.47; S.I. 2002/1691, [art. 2](#); S.I. 2003/1766, art. 2(a)
- F34** S. 10(3)(bc) inserted (27.10.2008) by [Welfare Reform Act 2007 \(c. 5\)](#), s. 70(2), [Sch. 3 para. 23\(6\)](#); S.I. 2008/787, art. 2(4)(f)

#### Commencement Information

- I4** S. 10 wholly in force at 1.4.2002; s. 10 not in force at Royal Assent see s. 20; s. 10 in force for specified purposes at 17.11.2001 and wholly in force at 1.4.2002 by [S.I. 2001/3689](#), [art. 2\(1\)\(a\)\(b\)](#)

## 11 Loss of benefit regulations

- (1) In <sup>[F35]</sup>sections 6B to 10] “prescribed” means prescribed by or determined in accordance with regulations made by the Secretary of State.
- (2) Regulations under any of the provisions of <sup>[F36]</sup>sections 6B to 10] shall be made by statutory instrument which (except in the case of regulations to which subsection (3) applies) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) A statutory instrument containing (whether alone or with other provisions)—
- (a) a provision by virtue of which anything is to be treated for the purposes of section<sup>[F37]</sup>6B or] 7 as a disqualifying benefit but not a sanctionable benefit,

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- (b) a provision prescribing the manner in which the applicable amount is to be reduced for the purposes of section<sup>[F38]</sup> 6B(6), 7(3) or 9(3),
  - (c) a provision the making of which is authorised by section<sup>[F39]</sup> 6B(7), (8), (9) or (10), 7(4) <sup>[F40]</sup>, (4A) <sup>[F41]</sup>, (4B) or (5), 8(4) or 9(4) <sup>[F40]</sup>, (4A) <sup>[F41]</sup>, (4B) or (5), or
  - (d) a provision prescribing the manner in which the amount of joint-claim jobseeker's allowance is to be reduced for the purposes of section 8(3)(a),
- shall not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (4) Subsections (4) to (6) of section 189 of the Administration Act (supplemental and incidental powers etc.) shall apply in relation to a power to make regulations that is conferred by any of the provisions of <sup>[F42]</sup>sections 6B to 10] as they apply in relation to the powers to make regulations that are conferred by that Act.
  - (5) The provision that may be made in exercise of the powers to make regulations that are conferred by <sup>[F43]</sup>sections 6B to 10] shall include different provision for different areas.

#### Textual Amendments

- F35** Words in s. 11(1) substituted (12.1.2010 for specified purposes, 1.4.2010 in so far as not already in force) by [Welfare Reform Act 2009 \(c. 24\)](#), s. 61(3), [Sch. 4 para. 6\(2\)](#); S.I. 2010/45, art. 2(1)(2)
- F36** Words in s. 11(2) substituted (12.1.2010 for specified purposes, 1.4.2010 in so far as not already in force) by [Welfare Reform Act 2009 \(c. 24\)](#), s. 61(3), [Sch. 4 para. 6\(2\)](#); S.I. 2010/45, art. 2(1)(2)
- F37** Words in s. 11(3)(a) inserted (12.1.2010 for specified purposes, 1.4.2010 in so far as not already in force) by [Welfare Reform Act 2009 \(c. 24\)](#), s. 61(3), [Sch. 4 para. 6\(3\)\(a\)](#); S.I. 2010/45, art. 2(1)(2)
- F38** Word in s. 11(3)(b) inserted (12.1.2010 for specified purposes, 1.4.2010 in so far as not already in force) by [Welfare Reform Act 2009 \(c. 24\)](#), s. 61(3), [Sch. 4 para. 6\(3\)\(b\)](#); S.I. 2010/45, art. 2(1)(2)
- F39** Words in s. 11(3)(c) inserted (12.1.2010 for specified purposes, 1.4.2010 in so far as not already in force) by [Welfare Reform Act 2009 \(c. 24\)](#), s. 61(3), [Sch. 4 para. 6\(3\)\(c\)](#); S.I. 2010/45, art. 2(1)(2)
- F40** Words in s. 11(3)(c) inserted (2.7.2002 for the purpose of making regulations, 6.10.2003 in so far as not already in force) by [2002 c. 16](#), s. 14, [Sch. 2](#), Pt. 3 para. 48; S.I. 2002/1691, [art. 2](#); S.I. 2003/1766, [art. 2\(a\)](#)
- F41** Words in s. 11(3)(c) inserted (27.10.2008) by [Welfare Reform Act 2007 \(c. 5\)](#), s. 70(2), [Sch. 3 para. 23\(7\)](#); S.I. 2008/787, art. 2(4)(f)
- F42** Words in s. 11(4) substituted (12.1.2010 for specified purposes, 1.4.2010 in so far as not already in force) by [Welfare Reform Act 2009 \(c. 24\)](#), s. 61(3), [Sch. 4 para. 6\(4\)](#); S.I. 2010/45, art. 2(1)(2)
- F43** Words in s. 11(5) substituted (12.1.2010 for specified purposes, 1.4.2010 in so far as not already in force) by [Welfare Reform Act 2009 \(c. 24\)](#), s. 61(3), [Sch. 4 para. 6\(4\)](#); S.I. 2010/45, art. 2(1)(2)

#### Commencement Information

- I5** S. 11 wholly in force at 1.4.2002; s. 11 not in force at Royal Assent see s. 20; s. 11 in force for specified purposes at 17.11.2001 and wholly in force at 1.4.2002 by [S.I. 2001/3689](#), [art. 2\(1\)\(a\)\(b\)](#)

## 12 Consequential amendments

<sup>F44</sup>(1) .....

- (2) In paragraph 3 of Schedule 3 to the Social Security Act 1998 (c. 14) (decisions against which an appeal lies), after sub-paragraph (e) there shall be inserted “; or  
(f) section 7, 8 or 9 of the Social Security Fraud Act 2001.”



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- (3) In section 170 of Administration Act (functions of the Social Security Advisory Committee in relation to the relevant enactments and the relevant Northern Ireland enactments), in subsection (5)—
- (a) in the definition of “relevant enactments”, after paragraph (af) there shall be inserted—
- “(ag) sections 7 to 11 of the Social Security Fraud Act 2001;”
- and
- (b) in the definition of “relevant Northern Ireland enactments”, after paragraph (af) there shall be inserted—
- “(ag) any provisions in Northern Ireland which correspond to sections 7 to 11 of the Social Security Fraud Act 2001; and”.

#### Extent Information

**E1** S. 12(1)(2) extends to Great Britain and s. 12(3) extends to U.K., see s. 21(2)

#### Textual Amendments

**F44** S. 12(1) repealed (22.3.2010) by [Welfare Reform Act 2009 \(c. 24\)](#), s. 61(3), [Sch. 7 Pt. 3](#); S.I. 2010/293, art. 2(3)(b) (with art. 2(4))

### 13 Interpretation of [<sup>F45</sup>sections 6A to 12]

In this section and [<sup>F45</sup>sections 6A to 12]—

“benefit” includes any allowance, payment, credit or loan;

[<sup>F46</sup>“cautioned”, in relation to any person and any offence, means cautioned after the person concerned has admitted the offence; and “caution” is to be interpreted accordingly; ]

<sup>F47</sup> ...

“family” has the same meaning as in Part 7 of the Social Security Contributions and Benefits Act 1992 (c. 4);

“income-based jobseeker’s allowance”, “joint-claim jobseeker’s allowance” and “joint-claim couple” have the same meanings as in the Jobseekers Act 1995 (c. 18);

[<sup>F48</sup>“income-related allowance” has the same meaning as in Part 1 of the Welfare Reform Act 2007 (employment and support allowance); ]

<sup>F47</sup> ...

“sanctionable benefit” has the meaning given by [<sup>F49</sup>section 6A(1)];

[<sup>F50</sup>“state pension credit” means state pension credit under the State Pension Credit Act 2002; ]

“war pension” has the same meaning as in section 25 of the Social Security Act 1989 (c. 24) (establishment and functions of war pensions committees).

#### Textual Amendments

**F45** Words in s. 13 substituted (12.1.2010 for specified purposes, 1.4.2010 in so far as not already in force) by [Welfare Reform Act 2009 \(c. 24\)](#), s. 61(3), [Sch. 4 para. 7\(2\)](#); S.I. 2010/45, art. 2(1)(2)

**F46** Words in s. 13 inserted (12.1.2010 for specified purposes, 1.4.2010 in so far as not already in force) by [Welfare Reform Act 2009 \(c. 24\)](#), s. 61(3), [Sch. 4 para. 7\(3\)](#); S.I. 2010/45, art. 2(1)(2)



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- F47** Words in s. 13 repealed (12.1.2010 for specified purposes, 1.4.2010 in so far as not already in force) by [Welfare Reform Act 2009 \(c. 24\)](#), s. 61(3), Sch. 4 para. 7(4), **7 Pt. 3**; S.I. 2010/45, art. 2(1)(2)
- F48** Words in s. 13 inserted (18.3.2008 for specified purposes, 27.10.2008 in so far as not already in force) by [Welfare Reform Act 2007 \(c. 5\)](#), s. 70(2), **Sch. 3 para. 23(8)**; S.I. 2008/787, art. 2(1)(4)(f), Sch.
- F49** Words in s. 13 substituted (12.1.2010 for specified purposes, 1.4.2010 in so far as not already in force) by [Welfare Reform Act 2009 \(c. 24\)](#), s. 61(3), **Sch. 4 para. 7(5)**; S.I. 2010/45, art. 2(1)(2)
- F50** S. 13: definition of “state pension credit” inserted (2.7.2002 for the purpose of making regulations, 6.10.2003 in so far as not already in force) by 2002 c. 16, s. 14, **Sch. 2 Pt. 3 para. 49**; S.I. 2002/1691, **art. 2**; S.I. 2003/1766, art. 2(a)

#### Commencement Information

- I6** S. 13 wholly in force at 1.4.2002; s. 13 not in force at Royal Assent see s. 20; s. 13 in force for specified purposes at 17.11.2001 and wholly in force at 1.4.2002 by [S.I. 2001/3689](#), **art. 2(1)(a)(b)**

**Status:**

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