

SOCIAL SECURITY FRAUD ACT 2001

EXPLANATORY NOTES

COMMENTARY ON CLAUSES 7 TO 13

Clause 7: Loss of benefit for commission of benefit offences

105. This clause contains provisions to remove or reduce benefit from offenders who have been convicted twice of benefit fraud within a period of three years.
106. Subsection (1) provides for benefit to be reduced or withdrawn where an offender is convicted on more than one occasion of specified benefit offences. Benefit withdrawal or reduction is triggered when an offender is convicted of one or more benefit offences in each of two separate sets of proceedings. The offence for which the second set of proceedings has been brought must occur within a period of three years of the date on which the offender was convicted for the first offence. Where this happens the offender will have all sanctionable benefits in payment withdrawn or reduced for the period of the sanction.
107. Subsection (2) introduces a “disqualification period”, which is the time for which the benefit will be reduced or withdrawn. Subsection (6) further prescribes the period as beginning at a prescribed time after conviction for the second offence.
108. Subsection (3) provides for Income Support to be paid at a reduced rate for the prescribed period rather than withdrawn completely. Details of the reduction will be prescribed in regulations. The broad intention is that the reduction will be similar to that which will apply in Jobseeker's Allowance cases where hardship is established.
109. Subsection (4) enables regulations to be made to provide that Jobseeker's Allowance claimants may be eligible for a reduced rate of benefit during the prescribed period providing they satisfy certain conditions. The intention is that these conditions will be similar to the hardship provisions that currently apply with Jobseeker's Allowance.
110. Subsection (5) enables regulations to be made to provide that Housing Benefit and Council Tax Benefit claimants will be eligible for a reduced rate of benefit during all or part of any disqualifying period. The intention is that a person entitled to Housing Benefit or Council Tax Benefit who becomes subject to sanction under the new clauses should, if any Income Support or Jobseeker's Allowance remains payable under subsections (3) and (4), remain entitled to full Housing Benefit and Council Tax Benefit. Where these benefits are not payable, the Housing Benefit and Council Tax Benefit entitlement will be reduced by a sum specified in regulations.
111. Subsection (6) provides that where an offender has been convicted twice of benefit fraud within the period specified within subsection (1), the sanction will be a period of 13 weeks commencing at the prescribed time after conviction for the second offence.
112. Subsection (7) provides that in the event if a successful appeal against either of the convictions that resulted in the imposition of a sanction, then all payments that would have been made but for the sanction are to be made as if no restriction had been imposed.
113. Subsection (8) sets out definitions of the terms used within this provision.

*These notes refer to the Social Security Fraud Act 2001
(c.11) which received Royal Assent on 11 May 2001*

114. Subsection (9) provides further definition of the meaning of conviction as used within this provision.
115. Subsection (10) provides that the sanction shall not take effect under this clause where it has already taken effect for the same convictions under the equivalent Northern Ireland legislation. It also allows a sanction to be imposed where a previous sanction took effect for a period within the same disqualifying period (e.g. where it has taken effect for part of that period in relation to a relative under clause 8 and then takes effect in relation to the offender himself for the rest of the period).
116. Subsection (11) provides that for the extent that the clause applies in Northern Ireland, the only sanctionable benefit that this clause will apply to is a War Pension.