2010 CHAPTER 13

PART 1

SOCIAL SECURITY

Benefit sanctions for offenders

Loss of benefit provisions

19.—(1) Before section 6 of the 2001 Act (but after the italic heading immediately before that section) insert—

"**Meaning of "disqualifying benefit" and "sanctionable benefit" for purposes of sections 5B and 6**

5A In this section and sections 5B and 6—

"disqualifying benefit" means (subject to any regulations under section 9(1))—

(a) any benefit under the Jobseekers (Northern Ireland) Order 1995 (in this Act referred to as "the Jobseekers Order") or the Jobseekers Act 1995;

(b) any benefit under the State Pension Credit Act (Northern Ireland) 2002 or the State Pension Credit Act 2002;

(c) any benefit under Part 1 of the Welfare Reform Act (Northern Ireland) 2007 or Part 1 of the Welfare Reform Act 2007 (employment and support allowance);

(d) any benefit under the Contributions and Benefits Act or the Social Security Contributions and Benefits Act 1992 other than—

(i) maternity allowance

(ii) statutory sick pay and statutory maternity pay;

(e) any war pension;

"sanctionable benefit" means (subject to any regulations under section 9(1))—

(a) any benefit under the Jobseekers Order other than joint-claim jobseeker's allowance;

(b) any benefit under the State Pension Credit Act (Northern Ireland) 2002;

(c) any benefit under Part 1 of the Welfare Reform Act (Northern Ireland) 2007; or

(d) any benefit under the Contributions and Benefits Act which is a disqualifying benefit other than—

(i) any retirement pension;

(ii) graduated retirement benefit;

(iii) disability living allowance;

(iv) attendance allowance;

(v) child benefit;

(vi) guardian's allowance;

(vii) a payment out of the social fund in accordance with Part 8 of the Contributions and Benefits Act;

(viii) a payment under Part 10 of that Act (Christmas bonuses).

Loss of benefit in case of conviction, penalty or caution for benefit offence

5B.—(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 109A of the Administration Act (penalty as alternative to prosecution) or section 115A of the Social Security Administration Act 1992 (the corresponding provision for Great Britain);

(b) "appropriate authority" means—

(i) in relation to section 109A of the Administration Act, the Department (within the meaning of that Act) or the Northern Ireland Housing Executive, an

(ii) in relation to section 115A of the Social Security Administration Act 1992, the Secretary of State or an authority which administers housing benefit or council tax benefit.

(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 6, 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.

(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 123(4) of the Contributions and Benefits Act of the amount of the offender's entitlement for that period were reduced in such manner as may be prescribed.

(7) The Department 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 Department 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 Department 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 Department may by regulations provide that, where the sanctionable benefit is housing 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 Department.

(12) This section has effect subject to section 5C.

(13) In this section and section 5C—

"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;

"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 coming into operation of this section.

Section 5B: supplementary provisions

5C.—(1) Where—

(a) the conviction of any person of any offence is taken into account for the purposes of the application of section 5B 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 5B 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 5B 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 (Northern Ireland) Order 1998 or the Social Security Act 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 5B 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 5B 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 (Northern Ireland) Order 1998 or the Social Security Act 1998—

(a) section 5B 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—

(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 5B 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 5B that could not have been imposed if P had not agreed to pay the penalty.

(5) For the purposes of section 5B—

(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); and

(b) references to a conviction include references to a conviction in relation to which the court makes an order for absolute or conditional discharge and to a conviction in Great Britain (including a conviction in relation to which a court in Scotland makes a probation order or an order for absolute discharge without proceeding to a conviction).

(6) In this section "the appropriate penalty provision" has the meaning given by section 5B(2)(a)."

(2) In Schedule 3—

(a) Part 1 contains further amendments of the 2001 Act, and

(b) Part 2 contains related amendments of other statutory provisions.

Jobseeker's allowance: sanctions for violent conduct etc. in connection with claim

[F1]20 . . . . . .

Textual Amendments

F1 S. 20 repealed (27.9.2017) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006), art. 2(2), **Sch. 12 Pt. 3**; S.R. 2017/190, art. 3(1)(2)(j)

Repeal of sections 53 to 57 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

21 In the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4), omit sections 53 to 57 (loss of benefit for breach of community order).

Changes to legislation:
There are currently no known outstanding effects for the Welfare Reform Act (Northern Ireland) 2010, Cross Heading: Benefit sanctions for offenders.