SCHEDULES

SCHEDULE 3

Section 19.

LOSS OF BENEFIT PROVISIONS: FURTHER AMENDMENTS

PART 1

FURTHER AMENDMENTS OF SOCIAL SECURITY FRAUD ACT (NORTHERN IRELAND) 2001

1.—(1) Section 6 of the 2001 Act (loss of benefit for commission of benefit offences) is amended as follows.

(2) In subsection (8)—

(a) after the definition of "benefit offence" insert—

""post-commencement offence" means an offence committed on or after 1 April 2002 (the day on which this section came into operation).", an

(b) omit the definitions of "disqualifying benefit" and "sanctionable benefit".

(3) In subsection (9) for paragraph (b) substitute—

"(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).".

(4) In the heading, for "commission of benefit offences" substitute "second or subsequent conviction of benefit offence".

2.—(1) Section 7 of the 2001 Act (effect of offence on joint-claim jobseeker's allowance) is amended as follows.

(2) In subsection (1)(b), for "the restriction in subsection (2) of section 6" substitute "an offence-related restriction".

(3) After subsection (1) insert—

"(1A) In this section—

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

(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 5B or 6, as the case requires.”.

(4) In subsection (2)—

(a) for “the disqualification period” substitute “the relevant period”,

(b) in paragraph (a), for “the restriction in subsection (2) of section 6” substitute “an offence-related restriction”, and

(c) in paragraph (b), for “that restriction” substitute “an offence-related restriction”.

(5) In subsection (3)—

(a) for “the disqualification period” substitute “the relevant period”, and

(b) in paragraph (b), for “convictions section 6” substitute “conduct section 5B or 6”.

(6) In subsection (4), for “the disqualification period” substitute “the relevant period”.

(7) After subsection (6) add—

“(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—

(a) M’s agreement to pay the penalty is withdrawn under subsection (5) of the appropriate penalty provision, o

(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 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 (Northern Ireland) Order 1998 or the Social Security Act 1998—

(a) if there is a new disqualifying event for the purposes of section 5B 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 5B falls to be determined in accordance with section 5C(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 5B(2)(a).".

3.—(1) Section 8 of the 2001 Act (effect of offence on benefits for members of offender's family) is amended as follows.

(2) In subsection (2)(b), for "section 6" substitute "section 5B or 6".

(3) After subsection (6) add—

"(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 (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 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 (Northern Ireland) Order 1998 or the Social Security Act 1998—

(a) if there is a new disqualifying event for the purposes of section 5B 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 5B falls to be determined in accordance with section 5C(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 5B(2)(a).".

4.—(1) Section 9 of the 2001 Act (power to supplement and mitigate loss of benefit provisions) is amended as follows.

(2) In subsection (1), for "sections 6 to 8" substitute "sections 5A to 8".

(3) In subsection (2), after "section" insert "5B,".

5.—(1) Section 10 of the 2001 Act (loss of benefit regulations) is amended as follows.

(2) In subsections (1) and (2), for "sections 6 to 9" substitute "sections 5B to 9".

(3) In subsection (3)—

(a) in paragraph (a), after "section" insert "5B or",

(b) in paragraph (b), after "section" insert "5B(6),", and

(c) in paragraph (c), after "section" insert "5B(7), (8), (9) or (10),".

(4) In subsections (4) and (5), for "sections 6 to 9" substitute "sections 5B to 9".

6.—(1) Section 12 of the 2001 Act (interpretation of sections 6 to 11) is amended as follows.

(2) For the words "sections 6 to 11", both in the section and in the heading to the section, substitute "sections 5A to 11".

(3) After the definition of "benefit" insert—

""cautioned", in relation to any person and any offence, means cautioned after the person concerned has admitted the offence;"

(4) Omit the definitions of "disqualification period" and "post-commencement offence".

(5) In the definition of "sanctionable benefit", for "section 6(8)" substitute "section 5A".

PART 2

RELATED AMENDMENTS OF OTHER STATUTORY PROVISIONS

The Social Security Administration (Northern Ireland) Act 1992 (c. 8)

7. In section 149 of the Administration Act (functions of Social Security Advisory Committee in relation to the relevant enactments), in subsection (5) in the definition of the "relevant enactments", in paragraph (ag), for "sections 6 to 10" substitute "sections 5A to 10".

The Social Security (Northern Ireland) Order 1998 (NI 10)

8. In paragraph 3 of Schedule 3 to the 1998 Order (decisions against which an appeal lies), in paragraph (f), after "section" insert "5B,".