



2001 CHAPTER 17

Loss of benefit provisions

[^{F1}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 ^{F2}..., in a case where [^{F3}the offence to which the notice relates] 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 [^{F4}current]

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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 [F⁵(5A)] to (10), the sanctionable benefit shall not be payable in the offender's case for any period comprised in the disqualification period.

[
F⁶(5A) The Department may by regulations provide that, where the sanctionable benefit is universal credit, 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 amount payable were reduced in such manner as may be prescribed;
- (b) the benefit 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 benefit were payable only if the circumstances are otherwise such as may be prescribed;
- (d) any amount of the benefit payable in prescribed circumstances were recoverable by the Department.]

(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.

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(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 [^{F7}the relevant period] 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.

[^{F8}(11A) For the purposes of subsection (11) the relevant period is—

- (a) in a case falling within subsection (1)(a) where the benefit offence, or one of them, is a relevant offence, the period of three years,
- (b) in a case falling within subsection (1)(a) (but not within paragraph (a) above), the period of 13 weeks, or
- (c) in a case falling within subsection (1)(b) or (c), the period of four weeks.]

(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;

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- (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.

[
^{F9}(14) In this section and section 6 “relevant offence” means—

- (a) the common law offence of conspiracy to defraud, or
- (b) a prescribed offence which, in the offender's case, is committed in such circumstances as may be prescribed, and which, on conviction—
 - (i) is found by the court to relate to an overpayment (as defined in section 109A(8) of the Administration Act) of at least £50,000,
 - (ii) is punished by a custodial sentence of at least one year (including a suspended sentence as defined in section 33(1) of the Treatment of Offenders Act (Northern Ireland) 1968), or
 - (iii) is found by the court to have been committed over a period of at least two years.]

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^{F10}(15) The Department may by order amend subsection (11A)(a), (b) or (c), or (14)(b)(i), (ii) or (iii) to substitute a different period or amount for that for the time being specified there.]]

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| F1 | Ss. 5A-5C inserted (13.8.2010) by Welfare Reform Act (Northern Ireland) 2010 (c. 13) , ss. 19, 36(1)(e) |
| F2 | Words in s. 5B(1)(b) repealed (4.4.2016) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006) , arts. 2(2), 115(8)(a) ; S.R. 2016/46, art. 4(b) |
| F3 | Words in s. 5B(1)(b) substituted (4.4.2016) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006) , arts. 2(2), 115(8)(a) ; S.R. 2016/46, art. 4(b) |
| F4 | Words in s. 5B(3) substituted (2.5.2016 for specified purposes, 9.9.2016 in so far as not already in operation) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006) , arts. 2(2), 118(2) ; S.R. 2016/215, art. 2(6)(d) ; S.R. 2016/325, art. 2(3) |
| F5 | Word in s. 5B(5) substituted (2.5.2016) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006) , art. 2(2) , Sch. 2 para. 47(2) ; S.R. 2016/215, art. 2(2)(c)(v)(ii) |
| F6 | S. 5B(5A) inserted (2.5.2016) by The Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006) , art. 2(2) , Sch. 2 para. 47(3) ; S.R. 2016/215, art. 2(2)(c)(v)(ii) |

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- F7** Words in s. 5B(11) substituted (2.5.2016 for specified purposes, 9.9.2016 in so far as not already in operation) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), arts. 2(2), [117\(3\)](#); S.R. 2016/215, art. 2(6)(d); S.R. 2016/325, art. 2(3)
- F8** S. 5B(11A) inserted (2.5.2016 for specified purposes, 9.9.2016 in so far as not already in operation) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), arts. 2(2), [117\(4\)](#); S.R. 2016/215, art. 2(6)(d); S.R. 2016/325, art. 2(3)
- F9** S. 5B(14) inserted (2.5.2016 for specified purposes, 9.9.2016 in so far as not already in operation) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), arts. 2(2), [117\(5\)](#); S.R. 2016/215, art. 2(6)(d); S.R. 2016/325, art. 2(3)
- F10** S. 5B(15) inserted (2.5.2016 for specified purposes, 9.9.2016 in so far as not already in operation) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), arts. 2(2), [117\(6\)](#); S.R. 2016/215, art. 2(6)(d); S.R. 2016/325, art. 2(3)

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Changes and effects yet to be applied to :

- s. 5B(1) word inserted by [S.I. 2015/2006 \(N.I.\) art. 119\(b\)](#)
- s. 5B(1)(c) and word repealed by [S.I. 2015/2006 \(N.I.\) art. 119\(c\)](#)
- s. 5B(2)(b)(i) words repealed by [S.I. 2015/2006 \(N.I.\) Sch. 12 Pt. 1](#)
- s. 5B(2)(b)(ii) words repealed by [S.I. 2015/2006 \(N.I.\) Sch. 12 Pt. 1](#)
- s. 5B(5) words substituted by [2010 c. 13 \(N.I.\) Sch. 2 para. 7](#)
- s. 5B(5) words substituted by [S.I. 2015/2006 \(N.I.\) Sch. 3 para. 14](#)
- s. 5B(6) repealed by [2010 c. 13 \(N.I.\) Sch. 4 Pt. 1](#)
- s. 5B(6)(7) repealed by [S.I. 2015/2006 \(N.I.\) Sch. 12 Pt. 1](#)
- s. 5B(9)(10) repealed by [S.I. 2015/2006 \(N.I.\) Sch. 12 Pt. 1](#)
- s. 5B(11A)(c) words repealed by [S.I. 2015/2006 \(N.I.\) Sch. 12 Pt. 11](#)
- s. 5B(13) words repealed by [S.I. 2015/2006 \(N.I.\) Sch. 12 Pt. 11](#)
- s. 5B(13) words substituted by [S.I. 2015/2006 \(N.I.\) art. 119\(d\)](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 5A(d)(iii) words repealed by [S.I. 2015/2006 \(N.I.\) Sch. 12 Pt. 8](#)
- s. 5B(7)(d) inserted by [S.I. 2015/2006 \(N.I.\) Sch. 2 para. 47\(4\)](#)
- s. 6(4)(d) inserted by [S.I. 2015/2006 \(N.I.\) Sch. 2 para. 48\(4\)](#)
- s. 7(3)(aa) inserted by [S.I. 2015/2006 \(N.I.\) Sch. 2 para. 49\(2\)\(b\)](#)
- s. 7(4)(d) inserted by [S.I. 2015/2006 \(N.I.\) Sch. 2 para. 49\(3\)](#)
- s. 10(d) words inserted by [S.I. 2015/2006 \(N.I.\) Sch. 2 para. 52\(3\)](#)