



Child Support, Pensions and Social Security Act 2000

2000 CHAPTER 19

PART III

SOCIAL SECURITY

Loss of benefit

62 Loss of benefit for breach of community order

- (1) If—
- (a) a court makes a determination that a person (“the offender”) has failed without reasonable excuse to comply with the requirements of a relevant community order made in respect of him,
 - (b) the Secretary of State is notified in accordance with regulations under section 64 of the determination, and
 - (c) the offender is a person with respect to whom the conditions for any entitlement to a relevant benefit are or become satisfied,
- 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 relevant benefit shall not be payable in the offender’s case for the prescribed period.
 - (3) Where the relevant benefit is income support, the benefit shall be payable in the offender’s case for the prescribed 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.
 - (4) The Secretary of State may by regulations provide that, where the relevant benefit is jobseeker’s allowance, any income-based jobseeker’s allowance shall be payable,

during the whole or a part of the prescribed 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) Where the relevant benefit is a payment under section 2 of the Employment and Training Act 1973 (under which training allowances are payable), that benefit shall not be payable for the prescribed period except to such extent (if any) as may be prescribed.
- (6) Where the determination by a court that was made in the offender’s case is quashed or otherwise set aside by the decision of that or any other court, all such payments and other adjustments shall be made in his case as would be necessary if the restrictions imposed by or under this section in respect of that determination had not been imposed.
- (7) The length of any period prescribed for the purposes of any of subsections (2) to (5) shall not exceed twenty-six weeks.
- (8) In this section—
- “income-based jobseeker’s allowance” and “joint-claim jobseeker’s allowance” have the same meanings as in the Jobseekers Act 1995;
 - “relevant benefit” means—
 - (a) income support;
 - (b) any jobseeker’s allowance other than joint-claim jobseeker’s allowance;
 - (c) any benefit under the Social Security Contributions and Benefits Act 1992 (other than income support) which is prescribed for the purposes of this section; or
 - (d) any prescribed payment under section 2 of the Employment and Training Act 1973 (under which training allowances are payable);
 - “relevant community order” means—
 - (a) a community service order;
 - (b) a probation order;
 - (c) a combination order;
 - (d) such other description of community order within the meaning of the Powers of Criminal Courts (Sentencing) Act 2000 as may be prescribed for the purposes of this section; or
 - (e) any order falling in England and Wales to be treated as an order specified in paragraphs (a) to (d).
- (9) In relation to a relevant benefit falling within paragraph (d) of the definition of that expression in subsection (8), references in this section to the conditions for entitlement to that benefit being or becoming satisfied with respect to any person are references to there having been or, as the case may be, the taking of a decision to make a payment of such benefit to that person.
- (10) In relation to any time before the coming into force of the Powers of Criminal Courts (Sentencing) Act 2000, the reference to that Act in subsection (8) shall be taken to be a reference to Part I of the Criminal Justice Act 1991.
- (11) In the application to Scotland of this section—

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- (a) in subsection (1) after the word “excuse” insert “(or, in the case of a probation order, failed)”;
- (b) for paragraph (b) of that subsection substitute—
 - “(b) the Secretary of State is notified in accordance with an Act of Adjournal made under section 64 of the determination”;
- (c) in subsection (8)—
 - (i) in the definition of relevant benefit, paragraph (d) does not apply in the case of any payment made by or on behalf of the Scottish Ministers; and
 - (ii) in the definition of relevant community order, for paragraphs (c) to (e) substitute—
 - “(c) such other description of order made under the Criminal Procedure (Scotland) Act 1995 as may be prescribed for the purposes of this section; or
 - (d) any order falling in Scotland to be treated as an order specified in paragraphs (a) to (c).”

63 Loss of 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) the restriction in subsection (2) of section 62 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 relevant benefit.
- (2) The allowance shall not be payable in the couple’s case for so much of the prescribed period as is a period for which—
 - (a) in the case of each of the members of the couple, the restriction in subsection (2) of section 62 would apply if the entitlement were an entitlement of that member to a relevant benefit; or
 - (b) that restriction would so apply in the case of one of the members of the couple and the other member of the couple is subject to sanctions for the purposes of section 20A of the Jobseekers Act 1995 (denial or reduction of joint-claim jobseeker’s allowance).
- (3) For any part of the 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 in relation to whom the court has made a determination.
- (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 the prescribed 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 (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) Subsection (6) of section 62 shall apply for the purposes of this section in relation to any determination relating to one or both members of the joint-claim couple as it applies for the purposes of that section in relation to the determination relating to the offender.
- (7) The length of any period prescribed for the purposes of subsection (2) or (3) shall not exceed twenty-six weeks.
- (8) In this section—
 “joint-claim couple” and “joint-claim jobseeker’s allowance” have the same meanings as in the Jobseekers Act 1995; and
 “relevant benefit” has the same meaning as in section 62.

64 Information provision

- (1) A court in Great Britain shall, before making a relevant community order in relation to any person, explain to that person in ordinary language the consequences by virtue of sections 62 and 63 of a failure to comply with the order.
- (2) The Secretary of State may by regulations require the Chief Probation Officer for any area in England and Wales, or such other person as may be prescribed, to notify the Secretary of State at the prescribed time and in the prescribed manner—
- (a) of the laying by a person employed or appointed by a probation committee of any information that a person has failed to comply with the requirements of a relevant community order;
 - (b) of any such determination as is mentioned in section 62(1);
 - (c) of such information about the offender, and in the possession of the person giving the notification, as may be prescribed; and
 - (d) of any circumstances by virtue of which any payment or adjustment might fall to be made by virtue of section 62(6) or 63(6).
- (3) The High Court of Justiciary may, by Act of Adjournal, make provision requiring the clerk of the court in which any proceedings are commenced that could result in a determination of a failure to comply with a relevant community order to notify the Secretary of State at such time and in such manner as may be specified in the Act of Adjournal of—
- (a) the commencement of the proceedings;
 - (b) any such determination made in the proceedings;
 - (c) such information about the offender as may be so specified; and
 - (d) any circumstances by virtue of which any payment or adjustment might fall to be made by virtue of section 62(6) or 63(6).
- (4) Where it appears to the Secretary of State that—

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- (a) the laying of any information that has been laid in England and Wales, or
- (b) the commencement of any proceedings that have been commenced in Scotland,

could result in a determination the making of which would result in the imposition by or under one or both of sections 62 and 63 of any restrictions, it shall be the duty of the Secretary of State to notify the person in whose case those restrictions would be imposed, or (as the case may be) the members of any joint-claim couple in whose case they would be imposed, of the consequences under those sections of such a determination in the case of that person, or couple.

- (5) A notification required to be given by the Secretary of State under subsection (4) must be given as soon as reasonably practicable after it first appears to the Secretary of State as mentioned in that subsection.
- (6) The Secretary of State may by regulations make such provision as he thinks fit for the purposes of sections 62 to 65 of this Act about—
 - (a) the use by a person within subsection (7) of information relating to community orders or social security;
 - (b) the supply of such information by a person within that subsection to any other person (whether or not within that subsection); and
 - (c) the purposes for which a person to whom such information is supplied under the regulations may use it.
- (7) The persons within this subsection are—
 - (a) the Secretary of State;
 - (b) a person providing services to the Secretary of State;
 - (c) a person employed or appointed by a probation committee;
 - (d) a person employed by a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994.
- (8) Regulations under subsection (6) may, in particular, authorise information supplied to a person under the regulations—
 - (a) to be used for the purpose of amending or supplementing other information held by that person; and
 - (b) where so used, to be supplied to any other person to whom, and used for any purpose for which, the information amended or supplemented could be supplied or used.
- (9) The explanation given to the offender by the court in pursuance of subsection (1) shall be treated as part of the explanation required to be given to the offender for the purposes of section 228(5) or 238(4) of the Criminal Procedure (Scotland) Act 1995.
- (10) In this section “relevant community order” has the same meaning as in section 62.
- (11) For the purposes of this section proceedings that could result in such a determination as is mentioned in subsection (3) are commenced in Scotland when, and only when, a warrant to arrest the offender or to cite the offender to appear before a court is issued under section 232(1) or 239(4) of the Criminal Procedure (Scotland) Act 1995.

65 Loss of benefit regulations

- (1) In the loss of benefit provisions “prescribed” means prescribed by or determined in accordance with regulations made by the Secretary of State.

- (2) Regulations prescribing a period for the purposes of any of the loss of benefit provisions may contain provision for determining the time from which the period is to run.
- (3) Regulations under any of the loss of benefit provisions shall be made by statutory instrument which (except in the case of regulations to which subsection (4) applies) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) A statutory instrument containing (whether alone or with other provisions)—
- (a) a provision prescribing the manner in which the applicable amount is to be reduced for the purposes of section 62(3),
 - (b) a provision prescribing the manner in which an amount of joint-claim jobseeker's allowance is to be reduced for the purposes of section 63(3)(a),
 - (c) a provision the making of which is authorised by section 62(4) or 63(4),
 - (d) a provision prescribing benefits under the Social Security Contributions and Benefits Act 1992 as benefits that are to be relevant benefits for the purposes of section 62, or
 - (e) a provision that any description of order is to be a relevant community order for the purposes of that section,
- shall not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (5) Subsections (4) to (6) of section 189 of the Social Security Administration Act 1992 (supplemental and incidental powers etc.) shall apply in relation to any power to make regulations that is conferred by the loss of benefit provisions as they apply in relation to the powers to make regulations that are conferred by that Act.
- (6) The provision that may be made in exercise of the powers to make regulations that are conferred by the loss of benefit provisions shall include different provision for different areas.
- (7) Where regulations made under section 62(8) prescribe a description of order made under the Criminal Procedure (Scotland) Act 1995 as a relevant community order for the purposes of that section, the regulations may make such modifications of that section as appear to the Secretary of State to be necessary in consequence of so prescribing.
- (8) In this section “the loss of benefit provisions” means sections 62 to 64 of this Act.

66 Appeals relating to loss of benefit

In paragraph 3 of Schedule 3 to the Social Security Act 1998 (decisions against which an appeal lies), after sub-paragraph (d) there shall be inserted “; or

- (e) section 62 or 63 of the Child Support, Pensions and Social Security Act 2000.”

Investigation powers

67 Investigation powers

Schedule 6 to this Act (which amends the enforcement provisions contained in Part VI of the Social Security Administration Act 1992) shall have effect.

Housing benefit and council tax benefit etc.

68 Housing benefit and council tax benefit: revisions and appeals

Schedule 7 (which makes provision for the revision of decisions made in connection with claims for housing benefit or council tax benefit and for appeals against such decisions) shall have effect.

69 Discretionary financial assistance with housing

- (1) The Secretary of State may by regulations make provision conferring a power on relevant authorities to make payments by way of financial assistance (“discretionary housing payments”) to persons who—
 - (a) are entitled to housing benefit or council tax benefit, or to both; and
 - (b) appear to such an authority to require some further financial assistance (in addition to the benefit or benefits to which they are entitled) in order to meet housing costs.
- (2) Regulations under this section may include any of the following—
 - (a) provision prescribing the circumstances in which discretionary housing payments may be made under the regulations;
 - (b) provision conferring (subject to any provision made by virtue of paragraph (c) or (d) of this subsection or an order under section 70) a discretion on a relevant authority—
 - (i) as to whether or not to make discretionary housing payments in a particular case; and
 - (ii) as to the amount of the payments and the period for or in respect of which they are made;
 - (c) provision imposing a limit on the amount of the discretionary housing payment that may be made in any particular case;
 - (d) provision restricting the period for or in respect of which discretionary housing payments may be made;
 - (e) provision about the form and manner in which claims for discretionary housing payments are to be made and about the procedure to be followed by relevant authorities in dealing with and disposing of such claims;
 - (f) provision imposing conditions on persons claiming or receiving discretionary housing payments requiring them to provide a relevant authority with such information as may be prescribed;
 - (g) provision entitling a relevant authority that are making or have made a discretionary housing payment, in such circumstances as may be prescribed, to cancel the making of further such payments or to recover a payment already made;

- (h) provision requiring or authorising a relevant authority to review decisions made by the authority with respect to the making, cancellation or recovery of discretionary housing payments.
- (3) Regulations under this section shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Subsections (4) to (6) of section 189 of the Social Security Administration Act 1992 (supplemental and incidental powers etc.) shall apply in relation to any power to make regulations under this section as they apply in relation to the powers to make regulations that are conferred by that Act.
- (5) Any power to make regulations under this section shall include power to make different provision for different areas or different relevant authorities.
- (6) In section 176(1) of that Act (consultation with representative organisation on subordinate legislation relating to housing benefit or council tax benefit), after paragraph (a) there shall be inserted—
 - “(aa) regulations under section 69 of the Child Support, Pensions and Social Security Act 2000;”.
- (7) In this section—
 - “prescribed” means prescribed by or determined in accordance with regulations made by the Secretary of State; and
 - “relevant authority” means an authority administering housing benefit or council tax benefit.

70 Grants towards cost of discretionary housing payments

- (1) The Secretary of State may, out of money provided by Parliament, make to a relevant authority such payments as he thinks fit in respect of—
 - (a) the cost to that authority of the making of discretionary housing payments; and
 - (b) the expenses involved in the administration by that authority of any scheme for the making of discretionary housing payments.
- (2) The following provisions, namely—
 - (a) subsections (1), (3), (4), (5)(b), (7)(b) and (8) of section 140B of the Social Security Administration Act 1992 (calculation of amount of subsidy payable to authorities administering housing benefit or council tax benefit), and
 - (b) section 140C of that Act (payment of subsidy),
 shall apply in relation to payments under this section as they apply in relation to subsidy under section 140A of that Act.
- (3) The Secretary of State may by order make provision—
 - (a) imposing a limit on the total amount of expenditure in any year that may be incurred by a relevant authority in making discretionary housing payments;
 - (b) imposing subsidiary limits on the expenditure that may be incurred in any year by a relevant authority in making discretionary housing payments in the circumstances specified in the order.
- (4) An order imposing a limit by virtue of subsection (3)(a) or (b) may fix that limit either by specifying the amount of the limit or by providing for the means by which it is to be determined.

- (5) An order under this section shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) Subsections (4) to (6) of section 189 of the Social Security Administration Act 1992 (supplemental and incidental powers etc.) shall apply in relation to any power to make an order under this section as they apply in relation to the powers to make an order that are conferred by that Act.
- (7) Any power to make an order under this section shall include power to make different provision for different areas or different relevant authorities.
- (8) In this section—
 - “discretionary housing payment” means any payment made by virtue of regulations under section 69;
 - “relevant authority” means an authority administering housing benefit or council tax benefit;
 - “subsidy” has the same meaning as in sections 140A to 140G of the Social Security Administration Act 1992;
 - “year” means a financial year within the meaning of the Local Government Finance Act 1992.

71 Recovery of housing benefit

For subsection (3) of section 75 of the Social Security Administration Act 1992 (overpayments of housing benefit) there shall be substituted—

- “(3) An amount recoverable under this section shall be recoverable—
- (a) except in such circumstances as may be prescribed, from the person to whom it was paid; and
 - (b) where regulations so provide, from such other person (as well as, or instead of, the person to whom it was paid) as may be prescribed.”

Child benefit

72 Child benefit disregards

In section 143(3)(c) of the Social Security Contributions and Benefits Act 1992 (disregard of days of absence in the case of children in residential accommodation in pursuance of arrangements made under the specified enactments), for subparagraph (iii) and the word “or” immediately preceding it there shall be substituted—

- “(iii) the Social Work (Scotland) Act 1968;
(iv) the National Health Service (Scotland) Act 1978;
(v) the Education (Scotland) Act 1980;
(vi) the Mental Health (Scotland) Act 1984; or
(vii) the Children (Scotland) Act 1995.”

*Social Security Advisory Committee***73 Social Security Advisory Committee**

- (1) Section 170 of the Social Security Administration Act 1992 (functions of the Social Security Advisory Committee in relation to the relevant enactments and the relevant Northern Ireland enactments) shall be amended as follows.
- (2) In the definition in subsection (5) of “relevant enactments”, after paragraph (ae) there shall be inserted—
 - “(af) section 42, sections 62 to 65 and sections 68 to 70 of the Child Support Pensions and Social Security Act 2000 and Schedule 7 to that Act;”.
- (3) In the definition in that subsection of “relevant Northern Ireland enactments”, after paragraph (ae) there shall be inserted—
 - “(af) any provisions in Northern Ireland which correspond to section 42, any of sections 62 to 65, 68 to 70 of the Child Support, Pensions and Social Security Act 2000 or Schedule 7 to that Act; and”.