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Social Security Fraud Act 2001

2001 CHAPTER 11

An Act to make provision, for the purposes of the law relating to social security, about the obtaining and disclosure of information; and to make provision for restricting the payment of social security benefits and war pensions in the case of persons convicted of offences relating to such benefits or pensions and about the institution of proceedings for such offences; and for connected purposes. [11th May 2001]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Obtaining and sharing information

1 Additional powers to obtain information

(1) The Administration Act shall be amended as follows.

(2) In subsection (1)(a) of section 109B (power to require information), after "subsection (2)" there shall be inserted " or (2A) "; and after subsection (2) (persons from whom information may be obtained) there shall be inserted—

"(2A) The persons who fall within this subsection are—

(a) any bank;

(b) any person carrying on a business the whole or a significant part of which consists in the provision of credit (whether secured or unsecured) to members of the public;

(c) any insurance company (within the meaning of the Insurance Companies Act 1982 (c. 50));

(d) any credit reference agency (within the meaning given by section 145(8) of the Consumer Credit Act 1974 (c. 39));

(e) any body the principal activity of which is to facilitate the exchange of information for the purpose of preventing or detecting fraud;

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(f) any person carrying on a business the whole or a significant part of which consists in the provision to members of the public of a service for transferring money from place to place;

(g) any water undertaker or sewerage undertaker, any water and sewerage authority constituted under section 62 of the Local Government etc. (Scotland) Act 1994 (c. 39) or any authority which is a collecting authority for the purposes of section 79 of that Act;

(h) any person who (within the meaning the Gas Act 1986 (c. 44)) supplies gas conveyed through pipes;

(i) any person who (within the meaning of the Electricity Act 1989 (c. 29)) supplies electricity conveyed by distribution systems;

(j) any person who provides a telecommunications service;

(k) any person conducting any educational establishment or institution;

(l) any body the principal activity of which is to provide services in connection with admissions to educational establishments or institutions;

(m) the Student Loans Company;

(n) any servant or agent of any person mentioned in any of the preceding paragraphs.

(2B) Subject to the following provisions of this section, the powers conferred by this section on an authorised officer to require information from any person by virtue of his falling within subsection (2A) above shall be exercisable for the purpose only of obtaining information relating to a particular person identified (by name or description) by the officer.

(2C) An authorised officer shall not, in exercise of those powers, require any information from any person by virtue of his falling within subsection (2A) above unless it appears to that officer that there are reasonable grounds for believing that the identified person to whom it relates is—

(a) a person who has committed, is committing or intends to commit a benefit offence; or

(b) a person who (within the meaning of Part 7 of the Contributions and Benefits Act) is a member of the family of a person falling within paragraph (a) above.

(2D) Nothing in subsection (2B) or (2C) above shall prevent an authorised officer who is an official of a Government department and whose authorisation states that his authorisation applies for the purposes of this subsection from exercising the powers conferred by this section for obtaining from—

(a) a water undertaker or any water and sewerage authority constituted under section 62 of the Local Government etc. (Scotland) Act 1994,

(b) any person who (within the meaning the Gas Act 1986) supplies gas conveyed through pipes,

(c) any person who (within the meaning of the Electricity Act 1989) supplies electricity conveyed by distribution systems, or

(d) any servant or agent of a person mentioned in any of the preceding paragraphs,

any information which relates exclusively to whether and in what quantities water, gas or electricity are being or have been supplied to residential premises specified or described in the notice by which the information is required.

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(2E) The powers conferred by this section shall not be exercisable for obtaining from any person providing a telecommunications service any information other than information which (within the meaning of section 21 of the Regulation of Investigatory Powers Act 2000 (c. 23)) is communications data but not traffic data.

(2F) Nothing in subsection (2B) or (2C) above shall prevent an authorised officer from exercising the powers conferred by this section for requiring information, from a person who provides a telecommunications service, about the identity and postal address of a person identified by the authorised officer solely by reference to a telephone number or electronic address used in connection with the provision of such a service."

(3) For subsection (5) of that section (protection from self incrimination) there shall be substituted—

"(5)

No one shall be required under this section to provide—

(a) any information that tends to incriminate either himself or, in the case of a person who is married, his spouse; or

(b) any information in respect of which a claim to legal professional privilege or, in Scotland, confidentiality as between client and professional legal adviser, would be successful in any proceedings;

and for the purposes of this subsection it is immaterial whether the information is in documentary form or not."

(4) After that subsection there shall be inserted—

"(6) Provision may be made by order—

(a) adding any person to the list of persons falling within subsection (2A) above;

(b) removing any person from the list of persons falling within that subsection;

(c) modifying that subsection for the purpose of taking account of any change to the name of any person for the time being falling within that subsection.

(7) In this section—

"bank" means—

(a) any institution for the time being authorised under a provision of the Banking Act 1987 (c. 22);

(b) any person for the time being specified in any of paragraphs 2 to 10 of Schedule 2 to that Act (exempted persons);

(c) any person for the time being entitled by virtue of the Banking Co-ordination (Second Council Directive) Regulations 1992 (S.I. 1992/3218) to accept deposits (within the meaning of that Act) in the United Kingdom;

"credit" includes a cash loan or any form of financial accommodation, including the cashing of a cheque;

"residential premises", in relation to a supply of water, gas or electricity, means any premises which—

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(a) at the time of the supply were premises occupied wholly or partly for residential purposes, or

(b) are premises to which that supply was provided as if they were so occupied; and

"telecommunications service" has the same meaning as in the Regulation of Investigatory Powers Act 2000 (c. 23)."

(5) In section 110A(8) (modifications for the application of sections 109B and 109C in the case of persons authorised by authorities administering housing benefit or council tax benefit), after paragraph (b) there shall be inserted ";and

(c) with the omission of section 109B(2D)."

(6) In section 111(1)(a) (offence of obstruction), for "inspector" there shall be substituted " authorised officer ".

(7) In section 121DA(5) (interpretation of Part 6), for the definition of "benefit offence" there shall be substituted—

""benefit offence" means—

(a) any criminal offence in connection with a claim for a relevant social security benefit;

(b) any criminal offence in connection with the receipt or payment of any amount by way of such a benefit;

(c) any criminal offence committed for the purpose of facilitating the commission (whether or not by the same person) of a benefit offence;

(d) any attempt or conspiracy to commit a benefit offence;".

(8) In section 121DA(7) (definitions for the purposes of section 121DA), after "section" there shall be inserted—

""relevant social security benefit" means a benefit under any provision of the relevant social security legislation; and".

(9) In section 190(1) (instruments subject to affirmative Parliamentary procedure), after paragraph (a) there shall be inserted—

"(aza) any order containing provision adding any person to the list of persons falling within section 109B(2A) above;".

Commencement Information

I1 S. 1 wholly in force at 30.4.2002; s. 1 not in force at Royal Assent see s. 20; s. 1(4)(9) in force at 26.2.2002 by S.I. 2002/403, **art. 2** and s. 1(1)-(3)(5)-(8) in force at 30.4.2002 by S.I. 2002/1222, **art. 2**

2 Electronic access to information

(1) After section 109B of the Administration Act there shall be inserted—

"109B APower of Secretary of State to require electronic access to information

(1) Subject to subsection (2) below, where it appears to the Secretary of State—

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(a) that a person falling within section 109B(2A) keeps any electronic records,

(b) that the records contain or are likely, from time to time, to contain information about any matter that is relevant for any one or more of the purposes mentioned in section 109A(2) above, and

(c) that facilities exist under which electronic access to those records is being provided, or is capable of being provided, by that person to other persons,

the Secretary of State may require that person to enter into arrangements under which authorised officers are allowed such access to those records.

(2) An authorised officer—

(a) shall be entitled to obtain information in accordance with arrangements entered into under subsection (1) above only if his authorisation states that his authorisation applies for the purposes of that subsection; and

(b) shall not seek to obtain any information in accordance with any such arrangements other than information which relates to a particular person and could be the subject of a requirement under section 109B above.

(3) The matters that may be included in the arrangements that a person is required to enter into under subsection (1) above may include—

(a) requirements as to the electronic access to records that is to be made available to authorised officers;

(b) requirements as to the keeping of records of the use that is made of the arrangements;

(c) requirements restricting the disclosure of information about the use that is made of the arrangements; and

(d) such other incidental requirements as the Secretary of State considers appropriate in connection with allowing access to records to authorised officers.

(4) An authorised officer who is allowed access in accordance with any arrangements entered into under subsection (1) above shall be entitled to make copies of, and to take extracts from, any records containing information which he is entitled to require under section 109B."

(2) After section 110A of that Act there shall be inserted—

"**110A APower of local authority to require electronic access to information**

(1) Subject to subsection (2) below, where it appears to an authority administering housing benefit or council tax benefit—

(a) that a person falling within section 109B(2A) keeps any electronic records,

(b) that the records contain or are likely, from time to time, to contain information about any matter that is relevant for any one or more of the purposes mentioned in section 110A(2) above, and

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(c) that facilities exist under which electronic access to those records is being provided, or is capable of being provided, by that person to other persons,

that authority may require that person to enter into arrangements under which authorised officers are allowed such access to those records.

(2) An authorised officer—

(a) shall be entitled to obtain information in accordance with arrangements entered into under subsection (1) above only if his authorisation states that his authorisation applies for the purposes of that subsection; and

(b) shall not seek to obtain any information in accordance with any such arrangements other than information which—

(i) relates to a particular person; and

(ii) could be the subject of any such requirement under section 109B above as may be imposed in exercise of the powers conferred by section 110A(8) above.

(3) The matters that may be included in the arrangements that a person is required to enter into under subsection (1) above may include—

(a) requirements as to the electronic access to records that is to be made available to authorised officers;

(b) requirements as to the keeping of records of the use that is made of the arrangements;

(c) requirements restricting the disclosure of information about the use that is made of the arrangements; and

(d) such other incidental requirements as the authority in question considers appropriate in connection with allowing access to records to authorised officers.

(4) An authorised officer who is allowed access in accordance with any arrangements entered into under subsection (1) above shall be entitled to make copies of, and to take extracts from, any records containing information which he is entitled to make the subject of a requirement such as is mentioned in subsection (2)(b) above.

(5) An authority administering housing benefit or council tax benefit shall not—

(a) require any person to enter into arrangements for allowing authorised officers to have electronic access to any records; or

(b) otherwise than in pursuance of a requirement under this section, enter into any arrangements with a person specified in section 109B(2A) above for allowing anyone acting on behalf of the authority for purposes connected with any benefit to have electronic access to any private information contained in any records,

except with the consent of the Secretary of State and subject to any conditions imposed by the Secretary of State by the provisions of the consent.

(6) A consent for the purposes of subsection (5) may be given in relation to a particular case, or in relation to any case that falls within a particular description of cases.

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(7) In this section "private information", in relation to an authority administering housing benefit or council tax benefit, means any information held by a person who is not entitled to disclose it to that authority except in compliance with a requirement imposed by the authority in exercise of their statutory powers."

(3) In section 111 of that Act (offences)—

(a) in subsection (1)(a), for "or" at the end there shall be substituted—

"(ab) refuses or neglects to comply with any requirement under section 109BA or 110AA or with the requirements of any arrangements entered into in accordance with subsection (1) of that section, or";

and

(b) in subsection (2), for "subsection (1)(b)" there shall be substituted " subsection (1)(ab) or (b) ".

3 Code of practice about use of information powers

(1) The Secretary of State shall issue a code of practice relating to the exercise of—

(a) the powers that are exercisable by an authorised officer under section 109B of the Administration Act in relation to the persons mentioned in subsection (2A) of that section; and

(b) the powers conferred on an authorised officer by sections 109BA and 110AA of that Act.

(2) The Secretary of State may from time to time—

(a) revise the whole or any part of the code for the time being in force under this section; and

(b) issue a revised code.

(3) Before issuing or revising the code of practice under this section, the Secretary of State shall—

(a) prepare and publish a draft of the code, or of the revised code; and

(b) consider any representations made to him about the draft;

and the Secretary of State may incorporate in the code he issues any modifications made by him to his proposals after their publication.

(4) The Secretary of State shall lay before each House of Parliament the code of practice, and every revised code, issued by him under this section.

(5) The code of practice issued under this section and any revisions of the code shall come into force at the time at which the code or, as the case may be, the revised code is issued by the Secretary of State.

(6) An authorised officer exercising any power in relation to which provision must be made by the code of practice under this section shall have regard, in doing so, to the provisions (so far as they are applicable) of the code for the time being in force under this section.

(7) A failure on the part of any person to comply with any provision of the code of practice for the time being in force under this section shall not of itself render him liable to any civil or criminal proceedings.

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(8) The code of practice for the time being in force under this section shall be admissible in evidence in any civil or criminal proceedings.

(9) In this section "authorised officer" has the same meaning as in Part 6 of the Administration Act.

4 Arrangements for payments in respect of information

(1) It shall be the duty of the Secretary of State to ensure that such arrangements (if any) are in force as he thinks appropriate for requiring or authorising, in such cases as he thinks fit, the making of such payments as he considers appropriate in respect of compliance with relevant obligations by any of the following—

(a) a credit reference agency (within the meaning given by section 145(8) of the Consumer Credit Act 1974 (c. 39)) or any servant or agent of such an agency;

(b) a person providing a telecommunications service (within the meaning of the Regulation of Investigatory Powers Act 2000 (c. 23)) or any servant or agent of such a person;

(c) a water undertaker or **[**[F1]Scottish Water**]** or any servant or agent of such an undertaker or **[**[F2]that body**]**,

(d) any person who (within the meaning the Gas Act 1986 (c. 44)) supplies gas conveyed through pipes, or any servant or agent of such a person;

(e) any person who (within the meaning of the Electricity Act 1989 (c. 29)) supplies electricity conveyed by distribution systems, or any servant or agent of such a person;

(f) any person added to the list of persons falling within subsection (2A) of section 109B of the Administration Act by an order under subsection (6) of that section, or any person's servant or agent who falls within that subsection by virtue of such an order.

(2) In subsection (1) "relevant obligation"—

(a) in relation to a person falling within paragraph (a), (b) or (f) of that subsection, means—

(i) an obligation to provide information in pursuance of a requirement imposed on that person under section 109B of the Administration Act by virtue only of his falling within subsection (2A) of that section; or

(ii) any obligation to comply, for the purpose of enabling an authorised officer to obtain information which might otherwise be obtained by the imposition of such a requirement, with any requirements imposed on that person under section 109BA or 110AA of that Act;

and

(b) in relation to a person falling within any of paragraphs (c) to (e) of that subsection, means any obligation to provide information in pursuance of a requirement imposed by such an exercise of the powers conferred by section 109B of that Act as is mentioned in subsection (2D) of that section.

(3) For the purpose of complying with his duty under this section, the Secretary of State may make arrangements for payments to be made out of money provided by Parliament.

(4) It shall be the duty of an authority administering housing benefit or council tax benefit to comply with such general or specific directions as to the making of payments as

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may be given by the Secretary of State in accordance with any arrangements for the time being in force for the purposes of subsection (1).

Textual Amendments

F1 Words in s. 4(1)(c) substituted (14.7.2004) by Water Industry (Scotland) Act 2002 (Consequential Modifications) Order 2004 (S.I. 2004/1822), art. 1(1), **Sch. para. 19(a)**

F2 Words in s. 4(1)(c) substituted (14.7.2004) by Water Industry (Scotland) Act 2002 (Consequential Modifications) Order 2004 (S.I. 2004/1822), art. 1(1), **Sch. para. 19(b)**

5 Exchange of information with overseas authorities

(1) In Part 14 of the Administration Act (social security systems outside Great Britain), after section 179 there shall be inserted the following section—

"179A Exchange of information with overseas authorities

(1) This section applies where it appears to the Secretary of State—

(a) that there are arrangements in force for the exchange of relevant information between him and any authorities in a country outside the United Kingdom ('the overseas country'); and

(b) that the arrangements and the law in force in the overseas country are such as to ensure that there are adequate safeguards in place against any improper use of information disclosed by the Secretary of State under this section.

(2) For the purpose of facilitating the carrying out by authorities in the overseas country of any function relating to anything corresponding to, or in the nature of, a social security benefit, the Secretary of State may make any such disclosure of relevant information to authorities in the overseas country as he considers necessary to give effect to the arrangements.

(3) It shall be the duty of the Secretary of State to take all such steps as may be reasonable for securing that relevant information disclosed to him in accordance with the arrangements is not used for any purpose for which its use is not expressly or impliedly authorised by or under the arrangements.

(4) This section does not apply where provision is in force under section 179 above for giving effect to the arrangements in question.

(5) The purposes for which information may be required to be disclosed to the Secretary of State under section 122D above or section 116D of the Northern Ireland Administration Act (information required from authorities administering housing benefit or council tax benefit) shall be deemed to include the further disclosure of that information in accordance with this section.

(6) In this section "relevant information" means any information held by the Secretary of State or any authorities in a country outside the United Kingdom for the purposes of any functions relating to, or to anything corresponding to or in the nature of, a social security benefit."

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(2) In Part 13 of the Social Security Administration (Northern Ireland) Act 1992 (c. 8) (social security systems outside Northern Ireland), after section 155 there shall be inserted the following section—

"**155A Exchange of information with overseas authorities**

(1) This section applies where it appears to the Department—

(a) that there are arrangements in force for the exchange of relevant information between the Department and any authorities in a country outside the United Kingdom ("the overseas country"); and

(b) that the arrangements and the law in force in the overseas country are such as to ensure that there are adequate safeguards in place against any improper use of information disclosed by the Department under this section.

(2) For the purpose of facilitating the carrying out by authorities in the overseas country of any function relating to anything corresponding to, or in the nature of, a social security benefit, the Department may make any such disclosure of relevant information to authorities in the overseas country as the Department considers necessary to give effect to the arrangements.

(3) It shall be the duty of the Department to take all such steps as may be reasonable for securing that relevant information disclosed to it in accordance with the arrangements is not used for any purpose for which its use is not expressly or impliedly authorised by or under the arrangements.

(4) This section does not apply where provision is in force under section 155 above for giving effect to the arrangements in question.

(5) The purposes for which information may be required to be disclosed to the Department under section 116D above or section 122D of the Great Britain Administration Act (information required from authorities administering housing benefit or council tax benefit) shall be deemed to include the further disclosure of that information in accordance with this section.

(6) In this section "relevant information" means any information held by the Department or any authorities in a country outside the United Kingdom for the purposes of any functions relating to, or to anything corresponding to or in the nature of, a social security benefit."

Extent Information

E1 S. 5(1) extends to Great Britain and s. 5(2) extends to U.K., see s. 21(2)

Commencement Information

I2 S. 5 in force at 14.2.2003 by S.I. 2003/273, **art. 2**

6 Exchange of information by authorities administering benefit

In each of sections 122D(3) and 122E(4) of the Administration Act (power of the Secretary of State and Northern Ireland Department to require the supply of information by authorities administering housing or council tax benefit, and persons

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acting on their behalf), for "prescribed" there shall be substituted " specified in directions given by the Secretary of State or, as the case may be, the Northern Ireland Department ".

Loss of benefit provisions

7 Loss of benefit for commission of benefit offences

(1) If—

(a) a person ("the offender") is convicted of one or more benefit offences in each of two separate sets of proceedings,

(b) the benefit offence, or one of the benefit offences, of which he is convicted in the later proceedings is one committed within the period of three years after the date, or any of the dates, on which he was convicted of a benefit offence in the earlier proceedings,

(c) the later set of proceedings has not been taken into account for the purposes of any previous application of this section or section 8 or 9 in relation to the offender or any person who was then a member of his family,

(d) the earlier set of proceedings has not been taken into account as the earlier set of proceedings for the purposes of any previous application of this section or either of those sections in relation to the offender or any person who was then a member of his family, and

(e) 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.

(2) Subject to subsections (3) to (5), the sanctionable benefit shall not be payable in the offender's case for any period comprised in the disqualification period.

(3) 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 124(4) of the Social Security Contributions and Benefits Act 1992 (c. 4) 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 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.

[[F3](4A) The Secretary of State 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.**]**

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[[F4](4B) The Secretary of State 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.**]**

(5) The Secretary of State may by regulations provide that, where the sanctionable benefit is housing benefit or council tax benefit, the benefit shall be payable, during the whole or a part of any period comprised in the disqualification period, as if one or both 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.

(6) For the purposes of this section the disqualification period, in relation to the conviction of a person of one or more benefit offences in each of two separate sets of proceedings, means the period of thirteen weeks beginning with such date, falling after the date of the conviction in the later set of proceedings, as may be determined by or in accordance with regulations made by the Secretary of State.

(7) Where—

(a) the conviction of any person of any offence is taken into account for the purposes of the application of this section 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 this section that could not have been imposed if the conviction had not taken place.

(8) In this section—

"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 benefit" means (subject to any regulations under section 10(1))—

(a) any benefit under the Jobseekers Act 1995 (c. 18) or the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15));

[[F5](aa) any benefit under the State Pension Credit Act 2002 or under any provision having effect in Northern Ireland corresponding to that Act;**]**

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Changes to legislation: *Social Security Fraud Act 2001 is up to date with all changes known to be in force on or before 29 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[[F6](ab) any benefit under Part 1 of the Welfare Reform Act 2007 (employment and support allowance) or under any provision having effect in Northern Ireland corresponding to that Part;**]**

(b) any benefit under the Social Security Contributions and Benefits Act 1992 (c. 4) or the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7) other than—

(i) maternity allowance;

[F7](ii) . . . . . .

[F7](iii) . . . . . .

(iv) statutory sick pay and statutory maternity pay;

(c) any war pension;

"sanctionable benefit" means (subject to subsection (11) and to any regulations under section 10(1)) any disqualifying benefit other than—

(a) joint-claim jobseeker's allowance;

(b) any retirement pension;

(c) graduated retirement benefit;

(d) disability living allowance;

(e) attendance allowance;

(f) child benefit;

(g) guardian's allowance;

(h) a payment out of the social fund in accordance with Part 8 of the Social Security Contributions and Benefits Act 1992;

(i) a payment under Part X of that Act (Christmas bonuses).

(9) For the purposes of this section—

(a) the date of a person's conviction in any proceedings of a benefit offence shall be taken to be the date on which he was found guilty of that offence in those proceedings (whenever he was sentenced); and

(b) references to a conviction include references to a conviction in relation to which the court makes an order for a conditional discharge or a court in Scotland makes a probation order and to a conviction in Northern Ireland.

(10) In this section references to any previous application of this section or section 8 or 9—

(a) include references to any previous application of a provision having an effect in Northern Ireland corresponding to provision made by this section, or either of those sections; but

(b) do not include references to any previous application of this section, or of either of those sections, the effect of which was to impose a restriction for a period comprised in the same disqualification period.

(11) In its application to Northern Ireland this section shall have effect as if references to a sanctionable benefit were references only to a war pension.

Textual Amendments

F3 S. 7(4A) inserted (2.7.2002 for the purpose of making regulations, 6.10.2003 in so far as not already in force) by 2002 c. 16 , s. 14 , **Sch. 2 Pt. 3 para. 45(2)** ; S.I. 2002/1691 , **art. 2** ; S.I. 2003/1766 , art. 2(a)

F4 S. 7(4B) inserted (18.3.2008 for specified purposes, 27.10.2008 in so far as not already in force) by Welfare Reform Act 2007 (c. 5) , s. 70(2) , **Sch. 3 para. 23(2)** ; S.I. 2008/787 , art. 2(1)(4)(f) , Sch.

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F5 S. 7(8): In definition of "disqualifying benefit" (aa) inserted (7.2.2002 for the purpose of making regulations, 6.10.2003 in so far as not already in force) by 2002 c. 16, s. 14, **Sch. 2 Pt. 3 para. 45(3)**; S.I. 2002/1691, **art. 2**; S.I. 2003/1766, art. 2(a)

F6 Words in s. 7(8) inserted (18.3.2008 for specified purposes) by Welfare Reform Act 2007 (c. 5), s. 70(2), **Sch. 3 para. 23(3)**; S.I. 2008/787, art. 2(1), Sch.

F7 Words in s. 7(8) repealed (8.4.2003) by Tax Credits Act 2002 (c. 21), s. 61, **Sch. 6**; S.I. 2003/962, art. 2(4)(e), Sch. 2

Modifications etc. (not altering text)

C1 S. 7 restricted (1.4.2002) by S.I. 2001/4022 , **reg. 20**

C2 S. 7(2) excluded (1.4.2002) by S.I. 2001/4022 , **regs. 6(2)** , 7(2)

C3 S. 7(9) applied (1.4.2002) by S.I. 2001/4022 , **reg. 2(2)**

Commencement Information

I3 S. 7 wholly in force at 1.4.2002; s. 7 not in force at Royal Assent see s. 20; s. 7 in force for specified purposes at 17.11.2001 and wholly in force at 1.4.2002 by S.I. 2001/3689 , **art. 2(1)(a)(b)**

8 Effect of offence on 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 7 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 sanctionable benefit.

(2) The allowance shall not be payable in the couple's case for so much of any period comprised in the disqualification 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 7 would apply if the entitlement were an entitlement of that member to a sanctionable 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—

(i) is subject to sanctions for the purposes of section 20A of the Jobseekers Act 1995 (c. 18) (denial or reduction of joint-claim jobseeker's allowance); or

(ii) is a person in whose case the restriction in subsection (2) of section 62 of the Child Support, Pensions and Social Security Act 2000 (c. 19) would apply if the entitlement were an entitlement to a relevant benefit (within the meaning of that section).

(3) For any part of any period comprised in the disqualification 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 by reference to whose convictions section 7 would apply.

(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

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be payable in a couple's case, during the whole or a part of so much of any period comprised in the disqualification 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 (c. 18) (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) Where—

(a) the conviction of any member of a couple for any offence is taken into account for the purposes of the application of this section in relation to that couple, 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 this section that could not have been imposed had the conviction not taken place.

Modifications etc. (not altering text)

C4 S. 8 restricted (1.4.2002) by S.I. 2001/4022, **reg. 20**

C5 S. 8(2)(3) excluded (1.4.2002) by S.I. 2001/4022, **regs. 12(2)**, 13(2)

Commencement Information

I4 S. 8 wholly in force at 1.4.2002; s. 8 not in force at Royal Assent see s. 20; s. 8 in force for specified purposes at 17.11.2001 and wholly in force at 1.4.2002 by S.I. 2001/3689, **art. 2(1)(a)(b)**

9 Effect of offence on benefits for members of offender's family

(1) This section applies to—

(a) income support;

(b) jobseeker's allowance;

[[F8](bb) state pension credit;**]**

[[F9](bc) employment and support allowance;**]**

(c) housing benefit; and

(d) council tax benefit.

(2) The Secretary of State may by regulations make provision in accordance with the following provisions of this section in relation to any case in which—

(a) the conditions for entitlement to any benefit to which this section applies are or become satisfied in the case of any person ("the offender's family member");

(b) that benefit falls to be paid in that person's case for the whole or any part of a period comprised in a period ("the relevant period") which is the disqualification period in relation to restrictions imposed under section 7 in the case of a member of that person's family; or

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(c) that member of that family ("the offender") is a person by reference to whom—

(i) the conditions for the entitlement of the offender's family member to the benefit in question are satisfied; or

(ii) the amount of benefit payable in the case of the offender's family member would fall (apart from any provision made under this section) to be determined.

(3) In relation to cases in which the benefit is income support, the provision that may be made by virtue of subsection (2) is provision that, in the case of the offender's family member, the benefit shall be payable for the whole or any part of any period comprised in the relevant period as if the applicable amount used for the determination under section 124(4) of the Social Security Contributions and Benefits Act 1992 (c. 4) of the amount of the offender's entitlement for that period were reduced in such manner as may be prescribed.

(4) In relation to cases in which the benefit is jobseeker's allowance, the provision that may be made by virtue of subsection (2) is provision that, in the case of the offender's family member, any income-based jobseeker's allowance shall be payable, during the whole or a part of any period comprised in the relevant 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 or the offender's family member, or both of them, 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.

[[F10](4A) In relation to cases in which the benefit is state pension credit, the provision that may be made by virtue of subsection (2) is provision that, in the case of the offender's family member, the benefit shall be payable for the whole or any part of any period comprised in the relevant period as if the rate of the benefit were reduced in such manner as may be prescribed.**]**

[[F11](4B) In relation to cases in which the benefit is employment and support allowance, the provision that may be made by virtue of subsection (2) is provision that, in the case of the offender's family member, any income-related allowance shall be payable, during the whole or a part of any period comprised in the relevant 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 or the offender's family member, or both of them, with such obligations with respect to the provision of information as may be imposed by the regulations;

(c) the allowance were payable only if circumstances are otherwise such as may be prescribed.**]**

(5) In relation to cases in which the benefit is housing benefit or council tax benefit, the provision that may be made by virtue of subsection (2) is provision that, in the case of the offender's family member, the benefit shall be payable, during the whole or a part of any period comprised in the relevant period, as if one or both of the following applied—

(a) the rate of the benefit were reduced in such manner as may be prescribed;

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(b) the benefit were payable only if the circumstances are such as may be prescribed.

(6) Where—

(a) the conviction of any member of a person's family for any offence is taken into account for the purposes of any restriction imposed by virtue of any regulations under this section, and

(b) that conviction is subsequently quashed,

all such payments and other adjustments shall be made in that person's case as would be necessary if no restriction had been imposed that could not have been imposed had the conviction not taken place.

Textual Amendments

F8 S. 9(1)(bb) inserted (2.7.2002 for the purpose of making regulations, 6.10.2003 in so far as not already in force) by 2002 c. 16, s. 14, **Sch. 2 Pt. 3 para. 46(2)**; S.I. 2002/1691, **art. 2**; S.I. 2003/1766, art. 2(a)

F9 S. 9(1)(bc) inserted (18.3.2008 for specified purposes) by Welfare Reform Act 2007 (c. 5), s. 70(2), **Sch. 3 para. 23(4)**; S.I. 2008/787, art. 2(1), Sch.

F10 S. 9(4A) inserted (2.7.2002 for the purpose of making regulations, 6.10.2003 in so far as not already in force) by 2002 c. 16, s. 14, **Sch. 2 Pt. 3 para. 46(3)**; S.I. 2002/1961, **art. 2**; S.I. 2003/1766, art. 2(a)

F11 S. 9(4B) inserted (18.3.2008 for specified purposes) by Welfare Reform Act 2007 (c. 5), s. 70(2), **Sch. 3 para. 23(5)**; S.I. 2008/787, art. 2(1), Sch.

Modifications etc. (not altering text)

C6 S. 9 excluded (1.4.2002) by S.I. 2001/4022, **regs. 6(2)**, 7(2)
S. 9 restricted (1.4.2002) by S.I. 2001/4022, **reg. 20**

Commencement Information

I5 S. 9 wholly in force at 1.4.2002; s. 9 not in force at Royal Assent see s. 20; s. 9 in force for specified purposes at 17.11.2001 and wholly in force at 1.4.2002 by S.I. 2001/3689, **art. 2(1)(a)(b)**

10 Power to supplement and mitigate loss of benefit provisions

(1) The Secretary of State may by regulations provide for any social security benefit to be treated for the purposes of sections 7 to 9—

(a) as a disqualifying benefit but not a sanctionable benefit; or

(b) as neither a sanctionable benefit nor a disqualifying benefit.

(2) The Secretary of State may by regulations provide for any restriction in section 7, 8 or 9 not to apply in relation to payments of benefit to the extent of any deduction that (if any payment were made) would fall, in pursuance of provision made by or under any enactment, to be made from the payments and paid to a person other than the offender or, as the case may be, a member of his family.

(3) In this section "social security benefit" means—

(a) any benefit under the Social Security Contributions and Benefits Act 1992 (c. 4) or the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7);[F12]...

(b) any benefit under the Jobseekers Act 1995 (c. 18) or the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15));

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[F13(bb) any benefit under the State Pension Credit Act 2002 or under any provision having effect in Northern Ireland corresponding to that Act; or]

(c) any war pension.

Textual Amendments

F12 Word in s. 10(3) repealed (6.10.2003) by State Pension Credit Act 2002 (c. 16), s. 22(3), **Sch. 3**; S.I. 2003/1766, art. 2(a)

F13 S. 10(3)(bb) inserted (2.7.2002 for the purpose of making regulations, 6.10.2003 in so far as not already in force) by 2002 c. 16, ss. 14, 22, **Sch. 2**, para.47; S.I. 2002/1691, **art. 2**; S.I. 2003/1766, art. 2(a)

Commencement Information

I6 S. 10 wholly in force at 1.4.2002; s. 10 not in force at Royal Assent see s. 20; s. 10 in force for specified purposes at 17.11.2001 and wholly in force at 1.4.2002 by S.I. 2001/3689, **art. 2(1)(a)(b)**

11 Loss of benefit regulations

(1) In sections 7 to 10 "prescribed" means prescribed by or determined in accordance with regulations made by the Secretary of State.

(2) Regulations under any of the provisions of sections 7 to 10 shall be made by statutory instrument which (except in the case of regulations to which subsection (3) applies) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) A statutory instrument containing (whether alone or with other provisions)—

(a) a provision by virtue of which anything is to be treated for the purposes of section 7 as a disqualifying benefit but not a sanctionable benefit,

(b) a provision prescribing the manner in which the applicable amount is to be reduced for the purposes of section 7(3) or 9(3),

(c) a provision the making of which is authorised by section 7(4) [F14, (4A)] or (5), 8(4) or 9(4) [F14, (4A)] or (5), or

(d) a provision prescribing the manner in which the amount of joint-claim jobseeker's allowance is to be reduced for the purposes of section 8(3)(a),

shall not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(4) Subsections (4) to (6) of section 189 of the Administration Act (supplemental and incidental powers etc.) shall apply in relation to a power to make regulations that is conferred by any of the provisions of sections 7 to 10 as they apply in relation to the powers to make regulations that are conferred by that Act.

(5) The provision that may be made in exercise of the powers to make regulations that are conferred by sections 7 to 10 shall include different provision for different areas.

Textual Amendments

F14 Words in s. 11(3)(c) inserted (2.7.2002 for the purpose of making regulations, 6.10.2003 in so far as not already in force) by 2002 c. 16, s. 14, **Sch. 2**, Pt. 3 para. 48; S.I. 2002/1691, **art. 2**; S.I. 2003/1766, art. 2(a)

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Commencement Information

I7 S. 11 wholly in force at 1.4.2002; s. 11 not in force at Royal Assent see s. 20; s. 11 in force for specified purposes at 17.11.2001 and wholly in force at 1.4.2002 by S.I. 2001/3689, **art. 2(1)(a)(b)**

12 Consequential amendments

(1) For paragraph (b) of section 63(2) of the Child Support, Pensions and Social Security Act 2000 (c. 19) (loss of benefit where one member of a joint-claim couple is in contravention of a community order) there shall be substituted—

"(b) that restriction would apply in the case of one of the members of the couple and the other member of the couple—

(i) is subject to sanctions for the purposes of section 20A of the Jobseekers Act 1995 (c. 18) (denial or reduction of joint-claim jobseeker's allowance); or

(ii) is a person in whose case the restriction in subsection (2) of section 8 of the Social Security Fraud Act 2001 (loss of benefit for offenders) would apply if the entitlement were an entitlement to a sanctionable benefit (within the meaning of that section)."

(2) In paragraph 3 of Schedule 3 to the Social Security Act 1998 (c. 14) (decisions against which an appeal lies), after sub-paragraph (e) there shall be inserted "; or

(f) section 7, 8 or 9 of the Social Security Fraud Act 2001."

(3) In section 170 of Administration Act (functions of the Social Security Advisory Committee in relation to the relevant enactments and the relevant Northern Ireland enactments), in subsection (5)—

(a) in the definition of "relevant enactments", after paragraph (af) there shall be inserted—

"(ag) sections 7 to 11 of the Social Security Fraud Act 2001;"

and

(b) in the definition of "relevant Northern Ireland enactments", after paragraph (af) there shall be inserted—

"(ag) any provisions in Northern Ireland which correspond to sections 7 to 11 of the Social Security Fraud Act 2001; and".

Extent Information

E2 S. 12(1)(2) extends to Great Britain and s. 12(3) extends to U.K., see s. 21(2)

13 Interpretation of sections 7 to 12

In this section and sections 7 to 12—

"benefit" includes any allowance, payment, credit or loan;

"disqualification period" has the meaning given by section 7(6);

"family" has the same meaning as in Part 7 of the Social Security Contributions and Benefits Act 1992 (c. 4);

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"income-based jobseeker's allowance", "joint-claim jobseeker's allowance" and "joint-claim couple" have the same meanings as in the Jobseekers Act 1995 (c. 18);

[[F15]"income-related allowance" has the same meaning as in Part 1 of the Welfare Reform Act 2007 (employment and support allowance);**]**

"post-commencement offence" means any criminal offence committed after the commencement of section 7;

"sanctionable benefit" has the meaning given by section 7(8);

[[F16] " state pension credit " means state pension credit under the State Pension Credit Act 2002; **]**

"war pension" has the same meaning as in section 25 of the Social Security Act 1989 (c. 24) (establishment and functions of war pensions committees).

Textual Amendments

F15 Words in s. 13 inserted (18.3.2008 for specified purposes) by Welfare Reform Act 2007 (c. 5), s. 70(2), **Sch. 3 para. 23(8)**; S.I. 2008/787, art. 2(1), Sch.

F16 S. 13: definition of "state pension credit" inserted (2.7.2002 for the purpose of making regulations, 6.10.2003 in so far as not already in force) by 2002 c. 16, s. 14, **Sch. 2 Pt. 3 para. 49**; S.I. 2002/1691, **art. 2**; S.I. 2003/1766, art. 2(a)

Commencement Information

I8 S. 13 wholly in force at 1.4.2002; s. 13 not in force at Royal Assent see s. 20; s. 13 in force for specified purposes at 17.11.2001 and wholly in force at 1.4.2002 by S.I. 2001/3689, **art. 2(1)(a)(b)**

Penalties as an alternative to prosecution

14 Delegation of functions

In section 115A of the Administration Act (penalty as an alternative to prosecution), after subsection (7) there shall be inserted—

"(7A) Subject to subsection (7B) below, the Secretary of State and an authority which administers housing benefit or council tax benefit may agree that, to the extent determined by the agreement, one may carry out on the other's behalf, or may join in the carrying out of, any of the other's functions under this section.

(7B) Subsection (7A) above shall not authorise any delegation of—

(a) the function of the person by whom any overpayment is recoverable, or to whom it is due, of determining whether or not a notice should be given under subsection (2) above in respect of that overpayment; or

(b) the Secretary of State's power to make regulations for the purposes of paragraph (b) of that subsection."

15 Colluding employers

(1) After section 115A of the Administration Act there shall be inserted—

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"115B Penalty as alternative to prosecution: colluding employers etc

(1) This section applies where it appears to the Secretary of State or an authority that administers housing benefit or council tax benefit—

(a) that there are grounds for instituting proceedings against any person ('the responsible person') for an offence (whether or not under this Act) in respect of any conduct; and

(b) that the conduct in respect of which there are grounds for instituting the proceedings is conduct falling within subsection (2) below.

(2) Conduct in respect of which there appear to be grounds for instituting proceedings falls within this subsection if—

(a) those proceedings would be for an offence under this Act in connection with an inquiry relating to the employment of relevant employees or of any one or more particular relevant employees; or

(b) it is conduct which was such as to facilitate the commission of a benefit offence by a relevant employee (whether or not such an offence was in fact committed).

(3) The Secretary of State or authority may give to the responsible person a written notice—

(a) specifying or describing the conduct in question;

(b) stating that he may be invited to agree to pay a penalty in respect of that conduct;

(c) stating that, if he does so in the manner specified by the Secretary of State or authority, no criminal proceedings will be instituted against him in respect of that conduct; and

(d) containing such information relating to the operation of this section as may be prescribed.

(4) If the recipient of a notice under subsection (3) above agrees, in the specified manner, to pay the penalty—

(a) the amount of the penalty shall be recoverable as a civil debt, and shall be capable of being set off against an amount of relevant benefit payable to the recipient of the notice; and

(b) no criminal proceedings shall be instituted against him in respect of the conduct to which the notice relates;

and section 71(10) above (recovery by execution etc.) shall apply in relation to an amount recoverable by virtue of paragraph (a) above as it applies in relation to an amount recoverable under the provisions mentioned in section 71(8) above.

(5) The amount of the penalty shall be—

(a) in a case in which the conduct in question falls within paragraph (a) of subsection (2) above but not within paragraph (b) of that subsection, £1,000;

(b) in a case in which that conduct falls within paragraph (b) of that subsection and the number of relevant employees by reference to whom it falls within that subsection is five or more, £5,000; and

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(c) in any other case, the amount obtained by multiplying £1,000 by the number of relevant employees by reference to whom that conduct falls within that subsection.

(6) The responsible person may withdraw his agreement to pay a penalty under this section by notifying the Secretary of State or authority, in the manner specified by the Secretary of State or authority, at any time during the period of 28 days beginning with the day on which he agrees to pay it.

(7) Where the responsible person withdraws his agreement in accordance with subsection (6) above—

(a) so much of the penalty as has already been recovered shall be repaid; and

(b) subsection (4)(b) above shall not apply.

(8) For the purposes of this section an individual is a relevant employee in relation to any conduct of the responsible person if—

(a) that conduct was at or in relation to a time when that individual was an employee of the responsible person;

(b) that conduct was at or in relation to a time when that individual was an employee of a body corporate of which the responsible person is or has been a director; or

(c) the responsible person, in engaging in that conduct, was acting or purporting to act on behalf of, in the interests of or otherwise by reason of his connection with, any person by whom that individual is or has been employed.

(9) In this section—

"conduct" includes acts, omissions and statements;

"director"—

(a) in relation to a company (within the meaning of the Companies Act 1985 (c. 6)), includes a shadow director;

(b) in relation to any such company that is a subsidiary of another, includes any director or shadow director of the other company; and

(c) in relation to a body corporate whose affairs are managed by its members, means a member of that body corporate;

"employee" means any person who—

(a) is employed under a contract of service or apprenticeship, or in an office (including an elective office), or

(b) carries out any work under any contract under which he has undertaken to provide his work,

and "employment" shall be construed accordingly;

"relevant benefit" means benefit prescribed for the purposes of section 71(8) above;

"shadow director" means a shadow director as defined in section 741(2) of the Companies Act 1985;

"subsidiary" means a subsidiary as defined in section 736 of the Companies Act 1985."

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(2) In section 164(8) of the Administration Act (penalties to be paid into the Consolidated Fund) after "115A" there shall be inserted " or 115B ".

Offences

16 Offence of failing to notify a change of circumstances

(1) In section 111A of the Administration Act (dishonest representations for obtaining benefit etc.)—

(a) in subsection (1), paragraphs (c) and (d) (dishonesty in connection with failures to notify the changes of circumstances that are required to be notified by regulations) shall be omitted and the word " or " shall be inserted at the end of paragraph (a);

(b) after that subsection there shall be inserted the subsections set out in subsection (2) below; and

(c) in subsection (4), for "subsection (1)" there shall be substituted " subsections (1) to (1E). "

(2) Those subsections are—

"(1A) A person shall be guilty of an offence if—

(a) there has been a change of circumstances affecting any entitlement of his to any benefit or other payment or advantage under any provision of the relevant social security legislation;

(b) the change is not a change that is excluded by regulations from the changes that are required to be notified;

(c) he knows that the change affects an entitlement of his to such a benefit or other payment or advantage; and

(d) he dishonestly fails to give a prompt notification of that change in the prescribed manner to the prescribed person.

(1B) A person shall be guilty of an offence if—

(a) there has been a change of circumstances affecting any entitlement of another person to any benefit or other payment or advantage under any provision of the relevant social security legislation;

(b) the change is not a change that is excluded by regulations from the changes that are required to be notified;

(c) he knows that the change affects an entitlement of that other person to such a benefit or other payment or advantage; and

(d) he dishonestly causes or allows that other person to fail to give a prompt notification of that change in the prescribed manner to the prescribed person.

(1C) This subsection applies where—

(a) there has been a change of circumstances affecting any entitlement of a person ('the claimant') to any benefit or other payment or advantage under any provision of the relevant social security legislation;

(b) the benefit, payment or advantage is one in respect of which there is another person ('the recipient') who for the time being has a right to receive payments to which the claimant has, or (but for the

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arrangements under which they are payable to the recipient) would have, an entitlement; and

(c) the change is not a change that is excluded by regulations from the changes that are required to be notified.

(1D) In a case where subsection (1C) above applies, the recipient is guilty of an offence if—

(a) he knows that the change affects an entitlement of the claimant to a benefit or other payment or advantage under a provision of the relevant social security legislation;

(b) the entitlement is one in respect of which he has a right to receive payments to which the claimant has, or (but for the arrangements under which they are payable to the recipient) would have, an entitlement; and

(c) he dishonestly fails to give a prompt notification of that change in the prescribed manner to the prescribed person.

(1E) In a case where that subsection applies, a person other than the recipient is guilty of an offence if—

(a) he knows that the change affects an entitlement of the claimant to a benefit or other payment or advantage under a provision of the relevant social security legislation;

(b) the entitlement is one in respect of which the recipient has a right to receive payments to which the claimant has, or (but for the arrangements under which they are payable to the recipient) would have, an entitlement; and

(c) he dishonestly causes or allows the recipient to fail to give a prompt notification of that change in the prescribed manner to the prescribed person.

(1F) In any case where subsection (1C) above applies but the right of the recipient is confined to a right, by reason of his being a person to whom the claimant is required to make payments in respect of a dwelling, to receive payments of housing benefit—

(a) a person shall not be guilty of an offence under subsection (1D) or (1E) above unless the change is one relating to one or both of the following—

(i) the claimant's occupation of that dwelling;

(ii) the claimant's liability to make payments in respect of that dwelling;

but

(b) subsections (1D)(a) and (1E)(a) above shall each have effect as if after "knows" there were inserted "or could reasonably be expected to know".

(1G) For the purposes of subsections (1A) to (1E) above a notification of a change is prompt if, and only if, it is given as soon as reasonably practicable after the change occurs."

(3) For subsection (1A) of section 112 of that Act (knowing failures to notify change of circumstances) there shall be substituted—

"(1A) A person shall be guilty of an offence if—

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(a) there has been a change of circumstances affecting any entitlement of his to any benefit or other payment or advantage under any provision of the relevant social security legislation;

(b) the change is not a change that is excluded by regulations from the changes that are required to be notified;

(c) he knows that the change affects an entitlement of his to such a benefit or other payment or advantage; and

(d) he fails to give a prompt notification of that change in the prescribed manner to the prescribed person.

(1B) A person is guilty of an offence under this section if—

(a) there has been a change of circumstances affecting any entitlement of another person to any benefit or other payment or advantage under any provision of the relevant social security legislation;

(b) the change is not a change that is excluded by regulations from the changes that are required to be notified;

(c) he knows that the change affects an entitlement of that other person to such a benefit or other payment or advantage; and

(d) he causes or allows that other person to fail to give a prompt notification of that change in the prescribed manner to the prescribed person.

(1C) In a case where subsection (1C) of section 111A above applies, the recipient is guilty of an offence if—

(a) he knows that the change affects an entitlement of the claimant to a benefit or other payment or advantage under a provision of the relevant social security legislation;

(b) the entitlement is one in respect of which he has a right to receive payments to which the claimant has, or (but for the arrangements under which they are payable to the recipient) would have, an entitlement; and

(c) he fails to give a prompt notification of that change in the prescribed manner to the prescribed person.

(1D) In a case where that subsection applies, a person other than the recipient is guilty of an offence if—

(a) he knows that the change affects an entitlement of the claimant to a benefit or other payment or advantage under a provision of the relevant social security legislation;

(b) the entitlement is one in respect of which the recipient has a right to receive payments to which the claimant has, or (but for the arrangements under which they are payable to the recipient) would have, an entitlement; and

(c) he causes or allows the recipient to fail to give a prompt notification of that change in the prescribed manner to the prescribed person.

(1E) Subsection (1F) of section 111A above applies in relation to subsections (1C) and (1D) above as it applies in relation to subsections (1D) and (1E) of that section.

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(1F) For the purposes of subsections (1A) to (1D) above a notification of a change is prompt if, and only if, it is given as soon as reasonably practicable after the change occurs."

Commencement Information

I9 S. 16 wholly in force at 18.10.2001; s. 16 not in force at Royal Assent see s. 20; s. 16 in force for specified purposes at 26.9.2001 and wholly in force at 18.10.2001 by S.I. 2001/3251, **art. 2(1)(a)(b)**

17 Time limit for proceedings in Scotland

In section 116(7) of the Administration Act (legal proceedings), after paragraph (a) there shall be inserted—

"(aa) this subsection shall not be taken to impose any restriction on the time when proceedings may be commenced for an offence under section 111A above;".

Supplemental

18 Meaning of "the Administration Act"

In this Act "the Administration Act" means the Social Security Administration Act 1992 (c. 5).

19 Repeals

The enactments mentioned in the Schedule to this Bill (which include some spent provisions) are hereby repealed to the extent specified in the second column of that Schedule.

20 Commencement

(1) The preceding provisions of this Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint.

(2) Subject to subsection (3), different days may be appointed under this section for different purposes.

(3) The power under this section to appoint a day for the coming into force of the provisions of sections 1 and 2 shall not authorise the appointment for those purposes of any day before the issue of the code of practice that must be issued under section 3.

Subordinate Legislation Made

P1 S. 20(1)(2) power partly exercised: different dates appointed for specified provisions by S.I. 2001/3251, **art. 2**
S. 20(1)(2) power partly exercised: different dates appointed for specified provisions by S.I. 2001/3689, **art. 2**
S. 20(1)(2) power partly exercised: 26.2.2002 appointed for specified provisions by S.I. 2002/403, **art 2**

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S. 20(1)(2) power partly exercised: 30.4.2002 appointed for specified provisions by S.I. 2002/1222
S. 20(1)(2) power partly exercised: 28.1.2002 appointed for specified provisions by S.I. 2002/117, **art. 2**

21 Short title and extent

(1) This Act may be cited as the Social Security Fraud Act 2001.

(2) Sections 5(2), 7, 10, 11, 12(3), 13 and 20, and this section, extend to Northern Ireland; and the other provisions of this Act do not so extend.

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PROSPECTIVE

SCHEDULE

Section 19

REPEALS

Short title and chapter	***Extent of repeal***
The Social Security Administration Act 1992 (c. 5).	In section 110A(8), the word "and" at the end of paragraph (a). In section 111A(1), paragraphs (c) and (d).
The Social Security Administration (Fraud) Act 1997 (c. 47).	Section 14.
The Social Security Act 1998 (c. 14).	In paragraph 3 of Schedule 3, the word "or" at the end of sub-paragraph (d).

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