



2001 CHAPTER 17

*Loss of benefit provisions*

**Loss of benefit for commission of benefit offences**

**6.—(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 7 or 8 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 123(4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7) (in this Act referred to as "the Contributions and Benefits Act") of the amount of the offender's entitlement for that period were reduced in such manner as may be prescribed.

(4) The Department may by regulations provide that, where the sanctionable benefit is jobseeker's allowance, any income-based jobseeker's allowance shall be payable, during the whole or a part of any period comprised in the disqualification period, as if one or more of the following applied—

- (a) the rate of the allowance were such reduced rate as may be prescribed;
- (b) the allowance were payable only if there is compliance by the offender with such obligations with respect to the provision of information as may be imposed by the regulations;
- (c) the allowance were payable only if the circumstances are otherwise such as may be prescribed.

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

(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—

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- (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 9(1))

- (a) any benefit under the [Jobseekers \(Northern Ireland\) Order 1995 \(NI 15\)](#) (in this Act referred to as “the Jobseekers Order”) or the [Jobseekers Act 1995 \(c. 18\)](#);
- (b) any benefit under the Contributions and Benefits Act or the Social Security Contributions and Benefits Act [1992 \(c. 4\)](#) other than—
  - (i) maternity allowance;
  - (ii) working families' tax credit;
  - (iii) disabled person's tax credit; and
  - (iv) statutory sick pay and statutory maternity pay;
- (c) any war pension;

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

- (a) any benefit under the Jobseekers Order other than joint-claim jobseeker's allowance;
- (b) any benefit under the Contributions and Benefits Act which is a disqualifying benefit other than—
  - (i) any retirement pension;
  - (ii) graduated retirement benefit;
  - (iii) disability living allowance;
  - (iv) attendance allowance;
  - (v) child benefit;
  - (vi) guardian's allowance;
  - (vii) a payment out of the social fund in accordance with Part VIII of the Contributions and Benefits Act;
  - (viii) a payment under Part X of that Act (Christmas bonus for pensioners).

(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 conditional discharge and to a conviction in Great Britain (including a conviction in relation to which a court in Scotland makes a probation order).
- (10) In this section references to any previous application of this section or section 7 or 8—
- (a) include references to any previous application of section 7, 8 or 9 of the Social Security Fraud Act 2001 (c. 11); but
  - (b) do not include references to any previous application of this section, or of section 7 or 8, the effect of which was to impose a restriction for a period comprised in the same disqualification period.

#### **Effect of offence on joint-claim jobseeker's allowance**

- 7.—(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 6 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 6 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 Article 22A of the Jobseekers Order (denial or reduction of joint-claim jobseeker's allowance); or
    - (ii) is a person in whose case the restriction in subsection (2) of section 53 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4) 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—

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- (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 6 would apply.

(4) The Department 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 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) Paragraph (6) of Article 22A of the Jobseekers Order (calculation of reduced amount) shall apply for the purposes of subsection (3) as it applies for the purposes of paragraph (5) of that Article.

(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.

### **Effect of offence on benefits for members of offender's family**

**8.—**(1) This section applies to—

- (a) income support;
- (b) jobseeker's allowance; and
- (c) housing benefit.

(2) The Department 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 6 in the case of a member of that person's family; or
- (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 123(4) of the Contributions and Benefits Act of the amount of the offender's entitlement for that period were reduced in such manner as may be prescribed.

(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.

(5) In relation to cases in which the benefit is housing 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;
- (b) the benefit were payable only if the circumstances are such as may be prescribed.

(6) Where—

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- (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.

### **Power to supplement and mitigate loss of benefit provisions**

**9.—**(1) The Department may by regulations provide for any social security benefit to be treated for the purposes of sections 6 to 8—

- (a) as a disqualifying benefit but not a sanctionable benefit; or
- (b) as neither a sanctionable benefit nor a disqualifying benefit.

(2) The Department may by regulations provide for any restriction in section 6, 7 or 8 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 statutory provision, 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 Contributions and Benefits Act or the Social Security Contributions and Benefits Act 1992 (c. 4);
- (b) any benefit under the Jobseekers Order or the Jobseekers Act 1995 (c. 18); or
- (c) any war pension.

### **Loss of benefit regulations**

**10.—**(1) In sections 6 to 9 "prescribed" means prescribed by or determined in accordance with regulations made by the Department.

(2) Regulations under any of the provisions of sections 6 to 9 shall (except in the case of regulations to which subsection (3) applies) be subject to negative resolution.

(3) Regulations containing (whether alone or with other provisions)—

- (a) a provision by virtue of which anything is to be treated for the purposes of section 6 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 6(3) or 8(3),
- (c) a provision the making of which is authorised by section 6(4) or (5), 7(4) or 8(4) 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 7(3)(a), shall be laid before the Assembly after being made and shall take effect on such date as may be specified in the regulations, but shall (without prejudice to the validity of anything done thereunder or to the making of new regulations) cease to have effect upon the expiration of a period of six months from that date unless at some time before the expiration of that period the regulations have been approved by a resolution of the Assembly.

(4) Article 74(3) to (6) of the [Social Security \(Northern Ireland\) Order 1998 \(NI 10\)](#) (regulations and orders) shall apply in relation to a power to make regulations that is conferred by any of the provisions of sections 6 to 9 as it applies in relation to the powers to make regulations that are conferred by that Order.

(5) The provision that may be made in exercise of the powers to make regulations that are conferred by sections 6 to 9 shall include different provision for different areas.

### **Consequential amendments**

**11.—**(1) For paragraph (b) of section 54(2) of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4) (loss of joint-claim jobseeker's allowance) 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 Article 22A of the Jobseekers Order (denial or reduction of joint-claim jobseeker's allowance); or

(ii) is a person in whose case the restriction in subsection (2) of section 7 of the Social Security Fraud Act (Northern Ireland) 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 \(Northern Ireland\) Order 1998 \(NI 10\)](#) (decisions against which an appeal lies), after subparagraph (e) there shall be added “; or

(f) section 6, 7 or 8 of the Social Security Fraud Act (Northern Ireland) 2001.”.

(3) In section 149(5) of the Administration Act (functions of Social Security Advisory Committee in relation to legislation and regulations), in the definition of “the relevant enactments”, after paragraph (af) there shall be inserted—



“(ag) sections 6 to 10 of the Social Security Fraud Act (Northern Ireland) 2001;”.

### **Interpretation of sections 6 to 11**

**12.** In this section and sections 6 to 11—

“benefit” includes any allowance, payment, credit or loan;

“disqualification period” has the meaning given by section 6(6);

“family” has the same meaning as in Part VII of the Contributions and Benefits Act;

“income-based jobseeker’s allowance”, “joint-claim jobseeker’s allowance” and “joint-claim couple” have the same meanings as in the Jobseekers Order;

“post-commencement offence” means any criminal offence committed after the coming into operation of section 6;

“sanctionable benefit” has the meaning given by section 6(8);

“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).