

SCHEDULES

SCHEDULE 4

LOSS OF BENEFIT PROVISIONS: FURTHER AMENDMENTS

PART 1

FURTHER AMENDMENTS OF SOCIAL SECURITY FRAUD ACT 2001

- 1 In this Part of this Schedule “the 2001 Act” means the [Social Security Fraud Act 2001 \(c. 11\)](#).
- 2 (1) Section 7 of the 2001 Act (loss of benefit for commission of benefit offences) is amended as follows.
- (2) In subsection (8)—
- (a) after the definition of “benefit offence” insert—
- ““post-commencement offence” means an offence committed on or after 1 April 2002 (the day on which this section came into force).”, and
- (b) omit the definitions of “disqualifying benefit” and “sanctionable benefit”.
- (3) In subsection (9)—
- (a) in paragraph (a), after “sentenced)” insert “or in the case mentioned in paragraph (b)(ii) the date of the order for absolute discharge”, and
- (b) for paragraph (b) substitute—
- “(b) references to a conviction include references to—
- (i) a conviction in relation to which the court makes an order for absolute or conditional discharge or a court in Scotland makes a probation order,
- (ii) an order for absolute discharge made by a court of summary jurisdiction in Scotland under section 246(3) of the Criminal Procedure (Scotland) Act 1995 without proceeding to a conviction, and
- (iii) a conviction in Northern Ireland.”.
- (4) Omit subsection (11).
- (5) In the heading, for “commission of benefit offences” substitute “second or subsequent conviction of benefit offence”.
- 3 (1) Section 8 of the 2001 Act (effect of offence on joint-claim jobseeker’s allowance) is amended as follows.
- (2) In subsection (1)(b), for “the restriction in subsection (2) of section 7” substitute “an offence-related restriction”.
- (3) After subsection (1) insert—

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“(1A) In this section—

- (a) “an offence-related restriction” means the restriction in subsection (5) of section 6B or the restriction in subsection (2) of section 7, and
- (b) in relation to an offence-related restriction, any reference to the relevant period is a reference to a period which is the disqualification period for the purposes of section 6B or section 7, as the case requires.”

(4) In subsection (2)—

- (a) for “the disqualification period” substitute “the relevant period”,
- (b) in paragraph (a), for “the restriction in subsection (2) of section 7” substitute “an offence-related restriction”, and
- (c) in paragraph (b), for “that restriction” substitute “an offence-related restriction”.

(5) In subsection (3)—

- (a) for “the disqualification period” substitute “the relevant period”, and
- (b) in paragraph (b), for “convictions section 7” substitute “conduct section 6B or 7”.

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

(7) After subsection (6) insert—

“(7) Where, after the agreement of any member of a couple (“M”) to pay a penalty under the appropriate penalty provision is taken into account for the purposes of any restriction imposed by virtue of any regulations under this section—

- (a) M’s agreement to pay the penalty is withdrawn under subsection (5) of the appropriate penalty provision, or
- (b) it is decided on an appeal or in accordance with regulations under the Social Security Act 1998 or the Social Security (Northern Ireland) Order 1998 that the overpayment to which the agreement relates is not recoverable or due,

all such payments and other adjustments shall be made as would be necessary if no restriction had been imposed by or under this section that could not have been imposed had M not agreed to pay the penalty.

(8) Where, after the agreement (“the old agreement”) of any member of a couple (“M”) to pay a penalty under the appropriate penalty provision is taken into account for the purposes of any restriction imposed by virtue of any regulations under this section, the amount of the overpayment to which the penalty relates is revised on an appeal or in accordance with regulations under the Social Security Act 1998 or the Social Security (Northern Ireland) Order 1998—

- (a) if there is a new disqualifying event for the purposes of section 6B consisting of M’s agreement to pay a penalty under the appropriate penalty provision in relation to the revised overpayment or M being cautioned in relation to the offence to which the old agreement relates, the new disqualification period for the purposes of section 6B falls to be determined in accordance with section 6C(4) (a), and

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- (b) in any other case, all such payments and other adjustments shall be made as would be necessary if no restriction had been imposed by or under this section that could not have been imposed had M not agreed to pay the penalty.
- (9) In this section “the appropriate penalty provision” has the meaning given by section 6B(2)(a).”
- 4 (1) Section 9 of the 2001 Act (effect of offence on benefits for members of offender’s family) is amended as follows.
- (2) In subsection (2)(b), for “section 7” substitute “section 6B or 7”.
- (3) After subsection (6) insert—
- “(7) Where, after the agreement of any member of a person’s family (“M”) to pay a penalty under the appropriate penalty provision is taken into account for the purposes of any restriction imposed by virtue of any regulations under this section—
- (a) M’s agreement to pay the penalty is withdrawn under subsection (5) of the appropriate penalty provision, or
- (b) it is decided on an appeal or in accordance with regulations under the Social Security Act 1998 or the Social Security (Northern Ireland) Order 1998 that the overpayment to which the agreement relates is not recoverable or due,
- all such payments and other adjustments shall be made as would be necessary if no restriction had been imposed that could not have been imposed had M not agreed to pay the penalty.
- (8) Where, after the agreement (“the old agreement”) of any member of a person’s family (“M”) to pay a penalty under the appropriate penalty provision is taken into account for the purposes of any restriction imposed by virtue of any regulations under this section, the amount of the overpayment to which the penalty relates is revised on an appeal or in accordance with regulations under the Social Security Act 1998 or the Social Security (Northern Ireland) Order 1998—
- (a) if there is a new disqualifying event for the purposes of section 6B consisting of M’s agreement to pay a penalty under the appropriate penalty provision in relation to the revised overpayment or M being cautioned in relation to the offence to which the old agreement relates, the new disqualification period for the purposes of section 6B falls to be determined in accordance with section 6C(4)(a), and
- (b) in any other case, all such payments and other adjustments shall be made as would be necessary if no restriction had been imposed by or under this section that could not have been imposed had M not agreed to pay the penalty.
- (9) In this section “the appropriate penalty provision” has the meaning given by section 6B(2)(a).”
- 5 (1) Section 10 of the 2001 Act (power to supplement and mitigate loss of benefit provisions) is amended as follows.
- (2) In subsection (1), for “sections 7 to 9” substitute “sections 6A to 9”.

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- (3) In subsection (2), after “section” insert “6B,”.
- 6 (1) Section 11 of the 2001 Act (loss of benefit regulations) is amended as follows.
- (2) In subsections (1) and (2), for “sections 7 to 10” substitute “sections 6B to 10”.
- (3) In subsection (3)—
- (a) in paragraph (a), after “section” insert “6B or”,
 - (b) in paragraph (b), after “section” insert “6B(6),”, and
 - (c) in paragraph (c), after “section” insert “6B(7), (8), (9) or (10),”.
- (4) In subsections (4) and (5), for “sections 7 to 10” substitute “sections 6B to 10”.
- 7 (1) Section 13 of the 2001 Act (interpretation of sections 7 to 12) is amended as follows.
- (2) For the words “sections 7 to 12”, both in the section and in the heading to the section, substitute “sections 6A to 12”.
- (3) After the definition of “benefit” insert—
- ““cautioned”, in relation to any person and any offence, means cautioned after the person concerned has admitted the offence; and “caution” is to be interpreted accordingly;”.
- (4) Omit the definitions of “disqualification period” and “post-commencement offence”.
- (5) In the definition of “sanctionable benefit”, for “section 7(8)” substitute “section 6A(1)”.
- 8 In section 21(2) of the of the 2001 Act (extent), after “sections 5(2),” insert “6A, 6B and 6C”.