

*These notes refer to the Social Security Fraud Act (Northern Ireland)
2001 (c.17) which received Royal Assent on 15 November 2001*

Social Security Fraud Act (Northern Ireland) 2001

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 7: Effect of offence on joint-claim Jobseeker's Allowance

Section 7 sets out how the fraud sanction provisions will apply to joint-claim JSA as introduced by Article 56 of, and Schedule 7 to, the Welfare Reform and Pensions (Northern Ireland) Order 1999. The requirement to make a joint claim for JSA impacts on couples without children where one or both of the partners is in the 18-24 years age range on 19 March 2001. Coverage will apply to those born on or after a certain date, so older couples without children will be included as time passes. Under joint claims, both members of the couple will have to claim JSA and both will have to meet JSA labour market conditions.

It is intended to prescribe in regulations that in cases where couples without dependants are in receipt of joint-claim JSA, and one member of the couple is subject to the sanction, the non-convicted member will continue to receive the equivalent of the rate of JSA which is applicable to a single person during the period of the sanction.

For IS claimants the effect of the sanction will be to reduce the amount of benefit in payment, rather than withdraw the benefit in its entirety. It is intended that the effect of this measure will be to reduce benefits in line with the calculation of JSA payments i.e. by 40 per cent. of the single person's allowance, or 20 per cent. where a member of the family is pregnant or seriously ill. The reduction will always leave a minimum of 10p IS in payment to enable HB as well as other "passport" benefit entitlements to remain.

Where the sanctioned benefit is neither IS nor income-based JSA, a claimant may claim such benefits under normal rules. Such benefits will be subject to sanctions but the claimant may still be entitled to payments of these benefits under the hardship regime. Entitlement to a hardship payment will also provide entitlement to HB (even where it has been sanctioned).

In any case where a claimant is neither eligible for IS nor income-based JSA under normal rules (e.g. if their income, capital or hours worked excludes them from these benefits), it is intended to prescribe in regulations that HB entitlement will be reduced by a specified amount similar to that used in IS cases. This would

be by 20 per cent. of the IS personal allowance where a member of the family is pregnant or seriously ill and 40 per cent. in all other cases. The decision whether to award hardship payments and the amount of the award will in all cases each carry the right of appeal to an appeal tribunal on a question of fact and law.

Section 7(1) provides for the provisions of subsections (2) and (3) to apply where a joint-claim couple are entitled, or become entitled to joint-claim JSA and the fraud sanction is applicable to at least one of the couple.

Section 7(2) provides that no joint-claim JSA will be payable where both members of the couple are subject to a fraud sanction, or where one member is subject to a fraud sanction and the other is already subject to a sanction pursuant to Article 22A of the Jobseekers Order, or to a community sentence sanction as detailed in section 53(2) of the Child Support, Pensions and Social Security Act.

Section 7(3) provides that where only one member of a couple is subject to a fraud sanction and the other member is not subject to any sanction, the amount of JSA payable will be reduced to an amount calculated in a prescribed way and will be paid to the other member of the couple who is not subject to the sanction.

Section 7(4) provides for hardship payments to be made in cases where both members of a joint-claim couple for JSA are subject to a fraud sanction, or where one member is subject to a fraud sanction and the other is sanctioned for employment-related reasons imposed under Article 22A of the Jobseekers Order, or the restriction introduced in section 53(2) of the Child Support, Pensions and Social Security Act.

Section 7(5) prescribes that the reduced amount payable, referred to in subsection (3), will be calculated in the same way as prescribed in Article 22A of the Jobseekers Order.

Section 7(6) provides that in the event of a successful appeal against either of the convictions that resulted in the imposition of a sanction, then all payments that would have been made but for the sanction are to be made as if no restriction had been imposed.