



2001 CHAPTER 17

Loss of benefit provisions

Loss of benefit for [^{F1}repeated benefit fraud]

6.—(1) If—

- [^{F2}(a) a person (“the offender”) is convicted of one or more benefit offences in a set of proceedings (“the current set of proceedings”),
- (b) within the period of five years ending on the date on which the benefit offence was, or any of them were, committed, one or more disqualifying events occurred in relation to the offender (the event, or the most recent of them, being referred to in this section as “the earlier disqualifying event”),
- (c) the current 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 the offender's family,
- (d) the earlier disqualifying event has not been taken into account as an earlier disqualifying event 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 the offender's 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.

[^{F3}(1A) The following restrictions do not apply if the benefit offence referred to in subsection (1)(a), or any of them, is a relevant offence.]

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(2) Subject to subsections [F⁴(2A)] to (5), the sanctionable benefit shall not be payable in the offender's case for any period comprised in the disqualification period.

[F⁵(2A) The Department may by regulations provide that, where the sanctionable benefit is universal credit, the benefit 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 amount payable were reduced in such manner as may be prescribed;
- (b) the benefit 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 benefit were payable only if the circumstances are otherwise such as may be prescribed;
- (d) any amount of the benefit payable in prescribed circumstances were recoverable by the Department.]

(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.

[F⁶(4A) The Department 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.]

[F⁷(4B) The Department 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—

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- (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, [^{F8}in an offender's case, means the relevant period beginning with a prescribed date falling after the date of the conviction in the current set of proceedings] .

[^{F9}(6A) For the purposes of subsection (6) the relevant period is—

- (a) in a case where, within the period of five years ending on the date on which the earlier disqualifying event occurred, a previous disqualifying event occurred in relation to the offender, the period of three years;
- (b) in any other case, 26 weeks.]

(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.

[^{F10}(7A) Subsection (7B) applies where, after the agreement of any person (“P”) to pay a penalty under the appropriate penalty provision is taken into account for the purposes of the application of this section in relation to that person—

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

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- (c) the amount of any overpayment to which the penalty relates is revised on an appeal or in accordance with regulations under the Social Security (Northern Ireland) Order 1998 or the Social Security Act 1998 and there is no new agreement by P to pay a penalty under the appropriate penalty provision in relation to the revised overpayment.

(7B) In those circumstances, 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 P had not agreed to pay the penalty.]

(8) In this section—

[^{F11}“appropriate penalty provision” has the meaning given in section 5B(2)(a);]

“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;

[^{F11}“disqualifying event” has the meaning given in section 5B(13).]

[^{F12}“post-commencement offence” means an offence committed on or after 1 April 2002 (the day on which this section came into operation).]

^{F13}

^{F14}

[^{F15}(8A) Where a person is convicted of more than one benefit offence in the same set of proceedings, there is to be only one disqualifying event in respect of that set of proceedings for the purposes of this section and—

- (a) subsection (1)(b) is satisfied if any of the convictions take place in the five year periods mentioned there;
- (b) the event is taken into account for the purposes of subsection (1)(d) if any of the convictions have been taken into account as mentioned there;
- (c) in the case of the earlier disqualifying event mentioned in subsection (6A) (a), the reference there to the date on which the earlier disqualifying event occurred is a reference to the date on which any of the convictions take place;
- (d) in the case of the previous disqualifying event mentioned in subsection (6A)(a), that provision is satisfied if any of the convictions take place in the five year period mentioned there.]

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(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

[^{F16}(b) references to a conviction include references to a conviction in relation to which the court makes an order for absolute or conditional discharge and to a conviction in Great Britain (including a conviction in relation to which a court in Scotland makes a probation order or an order for absolute discharge without proceeding to a conviction).]

(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.

[^{F17}(11) The Department may by order amend subsection (6A) to substitute different periods for those for the time being specified there.

(12) An order under subsection (11) may provide for different periods to apply according to the type of earlier disqualifying event or events occurring in any case.]

F1 Words in s. 6 substituted (2.5.2016 for specified purposes, 9.9.2016 in so far as not already in operation) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), arts. 2(2), **118(4)**; S.R. 2016/215, art. 2(6)(d); S.R. 2016/325, art. 2(3)

F2 S. 6(1)(a)-(e) substituted (2.5.2016 for specified purposes, 9.9.2016 in so far as not already in operation) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), arts. 2(2), **118(5)**; S.R. 2016/215, art. 2(6)(d); S.R. 2016/325, art. 2(3)

F3 S. 6(1A) inserted (2.5.2016 for specified purposes, 9.9.2016 in so far as not already in operation) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), arts. 2(2), **117(7)**; S.R. 2016/215, art. 2(6)(d); S.R. 2016/325, art. 2(3)

F4 Word in s. 6(2) substituted (2.5.2016) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), art. 2(2), **Sch. 2 para. 48(2)**; S.R. 2016/215, art. 2(2)(c)(v)(ii)

F5 S. 6(2A) inserted (2.5.2016) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), art. 2(2), **Sch. 2 para. 48(3)**; S.R. 2016/215, art. 2(2)(c)(v)(ii)

F6 2002 c. 14 (NI)

F7 S. 6(4B) inserted (1.7.2008 for certain purposes otherwise 27.10.2008) by [Welfare Reform Act \(Northern Ireland\) 2007 \(c. 2\)](#), ss. 28, 60, **Sch. 3 para. 14(2)**; S.R. 2008/276, **art. 2(2)(c)**, **Sch. Pt. 1**

F8 Words in s. 6(6) substituted (2.5.2016 for specified purposes, 9.9.2016 in so far as not already in operation) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), arts. 2(2), **118(6)**; S.R. 2016/215, art. 2(6)(d); S.R. 2016/325, art. 2(3)

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- F9** S. 6(6A) inserted (2.5.2016 for specified purposes, 9.9.2016 in so far as not already in operation) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), arts. 2(2), **118(7)**; S.R. 2016/215, art. 2(6)(d); S.R. 2016/325, art. 2(3)
- F10** S. 6(7A)(7B) inserted (2.5.2016 for specified purposes, 9.9.2016 in so far as not already in operation) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), arts. 2(2), **118(8)**; S.R. 2016/215, art. 2(6)(d); S.R. 2016/325, art. 2(3)
- F11** Words in s. 6(8) inserted (2.5.2016 for specified purposes, 9.9.2016 in so far as not already in operation) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), arts. 2(2), **118(9)**; S.R. 2016/215, art. 2(6)(d); S.R. 2016/325, art. 2(3)
- F12** S. 6(8): definition of "post-commencement offence" inserted (13.8.2010) by [Welfare Reform Act \(Northern Ireland\) 2010 \(c. 13\)](#), ss. 19(2)(a), 36(1)(e), **Sch. 3 para. 1(2)(a)**
- F13** S. 6(8): definition of "disqualifying benefit" repealed (13.8.2010) by [Welfare Reform Act \(Northern Ireland\) 2010 \(c. 13\)](#), ss. 19(2)(a), 36(1)(e), **Sch. 3 para. 1(2)(b)** (the said repeal is also cited in the repeals Schedule of the amending act in Sch. 4 Pt. 3)
- F14** S. 6(8): definition of "sanctionable benefit" repealed (13.8.2010) by [Welfare Reform Act \(Northern Ireland\) 2010 \(c. 13\)](#), ss. 19(2)(a), 36(1)(e), **Sch. 3 para. 1(2)(b)** (the said repeal is also cited in the repeals Schedule of the amending act in Sch. 4 Pt. 3)
- F15** S. 6(8A) inserted (2.5.2016 for specified purposes, 9.9.2016 in so far as not already in operation) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), arts. 2(2), **118(10)**; S.R. 2016/215, art. 2(6)(d); S.R. 2016/325, art. 2(3)
- F16** S. 6(9)(b) substituted (13.8.2010) by [Welfare Reform Act \(Northern Ireland\) 2010 \(c. 13\)](#), ss. 19(2)(a), 36(1)(e), **Sch. 3 para. 1(3)**
- F17** S. 6(11)(12) inserted (2.5.2016 for specified purposes, 9.9.2016 in so far as not already in operation) by [The Welfare Reform \(Northern Ireland\) Order 2015 \(S.I. 2015/2006\)](#), arts. 2(2), **118(11)**; S.R. 2016/215, art. 2(6)(d); S.R. 2016/325, art. 2(3)

Modifications etc. (not altering text)

- C1** S. 6(9) applied by [S.R. 2002/79, reg. 2\(7\)](#) (as substituted (1.9.2011) by [Social Security \(Loss of Benefit\) \(Amendment\) Regulations \(Northern Ireland\) 2011 \(S.R. 2011/291\)](#), **reg 2(3)**)

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Changes and effects yet to be applied to :

- s. 6(2) words substituted by [2010 c. 13 \(N.I.\) Sch. 2 para. 8](#)
- s. 6(2) words substituted by [S.I. 2015/2006 \(N.I.\) Sch. 3 para. 15](#)
- s. 6(3) repealed by [2010 c. 13 \(N.I.\) Sch. 4 Pt. 1](#)
- s. 6(3)(4) repealed by [S.I. 2015/2006 \(N.I.\) Sch. 12 Pt. 1](#)
- s. 6(4B)(5) repealed by [S.I. 2015/2006 \(N.I.\) Sch. 12 Pt. 1](#)
- s. 6(10) words repealed by [S.I. 2015/2006 \(N.I.\) Sch. 12 Pt. 1](#)
- s. 6(10)(a) words repealed by [S.I. 2015/2006 \(N.I.\) Sch. 12 Pt. 1](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 5A(d)(iii) words repealed by [S.I. 2015/2006 \(N.I.\) Sch. 12 Pt. 8](#)
- s. 5B(7)(d) inserted by [S.I. 2015/2006 \(N.I.\) Sch. 2 para. 47\(4\)](#)
- s. 6(4)(d) inserted by [S.I. 2015/2006 \(N.I.\) Sch. 2 para. 48\(4\)](#)
- s. 7(3)(aa) inserted by [S.I. 2015/2006 \(N.I.\) Sch. 2 para. 49\(2\)\(b\)](#)
- s. 7(4)(d) inserted by [S.I. 2015/2006 \(N.I.\) Sch. 2 para. 49\(3\)](#)
- s. 10(d) words inserted by [S.I. 2015/2006 \(N.I.\) Sch. 2 para. 52\(3\)](#)