Draft Regulations laid before Parliament under section 11(3) of the Social Security Fraud Act 2001, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2013 No.

SOCIAL SECURITY

The Social Security (Loss of Benefit) (Amendment) Regulations 2013

Made - - - - ***

Coming into force in accordance with regulation 1(2)

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 6B(5A), (6), (7)(c), (8), (9), (11) and (14), 7(2A), (3), (4)(c), (4A), (4B) and (6), 8(4)(c), 9(2), (2A), (3), (4)(c), (4A) and (4B), 10(1) and 11(1) of the Social Security Fraud Act 2001(**1**) and section 189(4) to (6) of the Social Security Administration Act 1992 ("the Administration Act")(**2**).

In accordance with section 173(1)(b) of the Administration Act, the Secretary of State has obtained the agreement of the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it(**3**).

A draft of these Regulations has been laid before, and approved by resolution of, each House of Parliament in accordance with section 11(3) of the Social Security Fraud Act 2001.

Citation and commencement

1.—(1) These Regulations may be cited as the Social Security (Loss of Benefit)(Amendment) Regulations 2013.

(2) They come into force—

(a) for the purposes of the provisions specified in paragraph (3), on 29th April 2013;

(b) for the purposes of regulations 3(f), 11(2) and 12, on 8th April 2013;

(**1**) 2001 c.11 ("the Fraud Act"). Section 6B is inserted by section 24(1) of the Welfare Reform Act 2009 (c.24) ("the 2009 Act"). Sections 7(4A) and 9(4A) are inserted respectively by paragraphs 45 and 46 of Schedule 2 to the State Pension Credit Act 2002 (c.16). Sections 7(4B) and 9(4B) are inserted by paragraph 23 of the Schedule to the Welfare Reform Act 2007 (c.5). Sections 6B(5A), 7(2A) and 9(2A) are inserted respectively by paragraphs 58(3), 59(3) and 61(4) of Schedule 2 to the Welfare Reform Act 2012 (c.5). Section 6B(14) is inserted by section 118(5) of that Act. Section 11(1) is cited for the meaning of the word "prescribed".

(**2**) 1992 c.5. *See* section 11(4) of the Fraud Act.

(**3**) Sections 6A to 11 of the Fraud Act is a "relevant enactment" by virtue of section 170(5)(ag) of the Social Security Administration Act 1992 inserted by section 12(3) of the Fraud Act. The reference to section 6A is inserted by paragraph 9(a) of Schedule 4 to the 2009 Act.

(c) for all other purposes, on 1st April 2013.

(3) The specified provisions are—

(a) regulation 3(d), (e) and (g);

(b) regulation 4(3), (6) and (7);

(c) regulation 5(3), (5)(b) and (6);

(d) regulation 9; and

(e) regulation 14.

Amendment of the Social Security (Loss of Benefit) Regulations 2001

2. The Social Security (Loss of Benefit) Regulations 2001(**4**) are amended as follows.

Amendment of regulation 1(2)

3. In regulation 1(2) (interpretation)—

(a) before the definition of "the Act" insert—

""the 2007 Act" means the Welfare Reform Act 2007(**5**);";

""the 2012 Act" means the Welfare Reform Act 2012(**6**);";

(b) after the definition of "the Act" insert—

""the Administration Act" means the Social Security Administration Act 1992;";

(c) after the definition of "the Benefits Act" insert—

""the ESA Regulations" means the Employment and Support Allowance Regulations 2008(**7**);";

(d) after the definition of "the Jobseeker's Allowance Regulations" insert—

""the UC Regulations" means the Universal Credit Regulations 2013(**8**);";

""assessment period" has the same meaning as in the UC Regulations;";

(e) after the definition of "disqualification period" insert—

""income-based jobseeker's allowance" means an income-based allowance under the Jobseekers Act as it has effect apart from the amendments made by Part 1 of Schedule 14 to the 2012 Act (to remove references to an income-based allowance);";

""income-related employment and support allowance" means an income-related allowance under the Part 1 of the 2007 Act as it has effect apart from the amendments made by Schedule 3 and Part 1 of Schedule 14 to the 2012 Act (to remove references to an income-related allowance);";

""joint claimant" means each of joint claimants as defined in section 40 of the 2012 Act;";

(f) after the definition of "pay day"(**9**) insert—

""personal independence payment" means the allowance under Part 4 of the 2012 Act;";

(**4**) S.I.2001/4022.
(**5**) 2007 c.5.
(**6**) 2012 c.5.
(**7**) S.I.2008/764.
(**8**) S.I.2013/ .
(**9**) That definition is inserted by S.I.2010/1160.

(g) after the definition of "relevant authority" add—.

""universal credit" means the benefit payable under Part 1 of the 2012 Act.".

Amendment of regulation 1A

4.—(1) Regulation 1A (disqualification period: section 6B(11) of the Act)(**10**) is amended as follows.

(2) At the end of paragraph (2)(a) add "other than a benefit to which paragraph (5A) applies".

(3) At the end of paragraph (2)(a) add "or universal credit".

(4) After paragraph (5) insert—

"(5A) This paragraph applies where on the determination day the offender or, as the case may be, the offender's family member is in receipt of a sanctionable benefit which is neither payable wholly in advance nor wholly in arrears and no other sanctionable benefit.".

(5) In paragraph (6), for "neither paragraph (2) nor paragraph (4) applies" substitute "paragraph (5A) applies or where there is no sanctionable benefit payable on the determination day".

(6) After paragraph (6) insert—

"(6A) Paragraph (6B) applies where, on the determination day, the offender or, as the case may be, the offender's family member is in receipt of universal credit.

(6B) Where this paragraph applies, DQ-day is—

(a) if the first day after the end of the period of 28 days beginning with the determination day is the first day of an assessment period, that day;

(b) if the first day after the end of the period of 28 days beginning with the determination day is not the first day of an assessment period, the first day of the next assessment period after that day.".

(7) In paragraph (7)—

(a) in sub-paragraph (a), after "paragraph (2)" insert "or (6A)";

(b) in sub-paragraph (b)—

(i) for "that paragraph" substitute "those paragraphs";

(ii) after "paragraph (3)" insert "or (6B)".

Amendment of regulation 2

5.—(1) Regulation 2 (disqualification period: section 7(6) of the Act) (**11**) is amended as follows.

(2) At the end of paragraph (2)(a), add "other than a benefit to which paragraph (5A) applies".

(3) At the end of paragraph (2)(a), add "or universal credit".

(4) After paragraph (5) insert—

"(5A) This paragraph applies where on the determination day the offender or, as the case may be, the offender's family member is in receipt of a sanctionable benefit which is neither payable wholly in advance nor wholly in arrears and no other sanctionable benefit.".

(5) In paragraph (6)—

(a) for "neither paragraph (2) nor paragraph (4) applies" substitute "paragraph (5A) applies or where there is no sanctionable benefit payable on the determination day";

(b) at the beginning of sub-paragraph (c) insert "universal credit,".

(**10**) Regulation 1A is inserted by S.I.2010/1160.
(**11**) Regulation 2 is substituted by S.I.2010/1160.

(6) After paragraph (6) insert—

"(6A) Paragraph (6B) applies where on the determination day, the offender or, as the case may be, the offender's family member is in receipt of universal credit.

(6B) Where this paragraph applies, DQ-day is—

(a) if the first day after the end of the period of 28 days beginning with the determination day is the first day of an assessment period, that day;

(b) if the first day after the end of the period of 28 days beginning with the determination day is not the first day of an assessment period, the first day of the next assessment period after that day.".

(7) In paragraph (7), after "this regulation" insert "but except where paragraph (8) applies".

(8) After paragraph (7) add—

5.—"(8) Where the date of the conviction of the offender for the benefit offence in the later proceedings is on or after 1st April 2013 and on the determination day—

(a) paragraph (2) or (6A) applies in the case of an offender or, as the case may be, an offender's family member; but

(b) that person ceases to be in receipt of a benefit referred to in those paragraphs before the first day of the disqualification period that would apply by virtue of paragraph (3) or (6B),

DQ-day is the first day after the end of the period of 28 days beginning with the determination day.".

Insertion of regulation 2A

6. After regulation 2 insert—

"**Prescribed offences: section 6B(14)(b) of the Act**

2A.—(1) Paragraphs (2) to (4) prescribe offences which are relevant offences for the purpose of sections 6B and 7 of the Act where section 6B(14)(b)(i), (ii) or (iii) of the Act applies.

(2) In England and Wales, offences under—

(a) section 8 of the Accessories and Abettors Act 1861(**12**);

(b) section 1 of the Criminal Law Act 1977(**13**);

(c) section 1, 3, 4 or 5 of the Forgery and Counterfeiting Act 1981(**14**);

(d) section 6 or 7 of the Fraud Act 2006(**15**); and

(e) section 44, 45 or 46 of the Serious Crime Act 2007(**16**).

(3) In England, Wales or Scotland, offences under—

(a) section 182 of the Administration Act;

(**12**) 1861 c.94.
(**13**) 1977 c.45 as amended by section 5(1) of the Criminal Attempts Act 1981 (c.47), section 7(1) and (2) of the Computer Misuse Act 1990 (c.18), section 9(1) and (2) of and paragraph 4(a) of Schedule 1 and Schedule 2 to, the Criminal Justice (Terrorism and Conspiracy) Act 1998 (c.40) and section 300(1) of, and paragraph 4(b) of Schedule 1 and Schedule 2 to, the Trade Union and Labour Relations (Consolidation) Act 1992 (c.52).
(**14**) 1981 c.45. Section 5 is amended by section 44(2) of, and Schedule 2 to, the Identity Cards Act 2006 (c.15), section 3(1) to (3) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c.19), section 88(1) and (2) of the Crime (International Co-operation) Act 2003 (c.32) and section 261(1) of, and paragraph 67(a) of Schedule 27 to, the Civil Partnership Act 2004 (c.33).
(**15**) 2006 c.35.
(**16**) 2007 c.27.

(b) section 327, 328 or 329 of the Proceeds of Crime Act 2002(**17**); and

(c) section 4, 5 or 6 of the Identity Documents Act 2010(**18**).

(4) In Scotland—

(a) the common law offences of—

(i) conspiracy to defraud;

(ii) embezzlement;

(iii) fraud;

(iv) fraudulent scheme; and

(v) uttering;

(b) offences under—

(i) section 44 of the Criminal Law (Consolidation) (Scotland) Act 1995(**19**);

(ii) section 28 or 30 of the Criminal Justice and Licensing (Scotland) Act 2010(**20**) ("the 2010 Act"); and

(c) offences to which section 29 of the 2010 Act (offences aggravated by connection with serious organised crime) applies.

(5) Paragraphs (6) and (7) prescribe offences which are relevant offences for the purpose of sections 6B and 7 of the Act where section 6B(14)(b)(i) or (ii) of the Act applies.

(6) In England and Wales, offences under section 1 of the Fraud Act 2006.

(7) In England, Wales or Scotland, offences under—

(a) section 111A of the Administration Act(**21**);

(b) section 35 of the Tax Credits Act 2002(**22**).".

Amendment of regulation 3 and transitional provision

7.—(1) Regulation 3 (reduction of income support and income-related employment and support allowance)(**23**) is amended as follows.

(2) In the heading omit "and income-related employment and support allowance".

(3) In paragraph (1), omit "or an income-related employment and support allowance".

(4) In paragraph (5), omit "or an income-related employment and support allowance".

(5) In paragraph (6) omit the words from "or, as the case may be" to the end of that paragraph.

(6) The amendments made by this regulation do not apply—

(a) in relation to a person whose payment of income-related employment and support allowance was being reduced in accordance with regulation 3 of the Social Security (Loss of Benefit) Regulations 2001 on 1st April 2013; or

(b) where the offence in respect of which income-related employment and support allowance falls to be reduced was committed before 1st April 2013.

(**17**) 2002 c.29. Sections 327 to 329 are amended by sections 102 and 103 of the Serious Organised Crime and Police Act 2005 (c.15).
(**18**) 2010 c.40.
(**19**) 1995 c.39. Section 44 is amended by section 200(2)(b) of the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13)
(**20**) 2010 asp 13.
(**21**) Section 111A is inserted by section 13 of the Social Security Administration (Fraud) Act 1997 (c.47) and amended by section 85 of the Child Support, Pensions and Social Security Act 2000 (c.19) and sections 1(1) and 16 of the Social Security Fraud Act 2001.
(**22**) 2002 c.21.
(**23**) Regulation 3 is amended by S.I.2008/1554 and 2010/424.