

2013 No. 385

SOCIAL SECURITY

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

Made - - - - 25th February 2013

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(a) and section 189(4) to (6) of the Social Security Administration Act 1992 (“the Administration Act”)(b).

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(c).

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;
- (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.

(a) 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”.

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

(c) 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.

[Regs. 2 - 15 make various amends to regs. 1 - 3, 5, 11 & 19 of S.I. 2001/4022.]

Signed by authority of the Secretary of State for Work and Pensions.

25th February 2013

Freud
Parliamentary Under-Secretary of State,
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security (Loss of Benefit) Regulations 2001 (S.I. 2001/4022) (“the 2001 Regulations”). The 2001 Regulations prescribe the rules which relate to the restrictions in payment imposed by virtue of sections 6B to 13 of the Social Security Fraud Act 2001 (“the 2001 Act”) of certain benefits to or in respect of certain persons (“offenders”). These rules apply in relation to payments of benefits to offenders who have been convicted of one or more benefit offences in any proceedings who have agreed to pay an administrative penalty for a benefit offence or who have been cautioned for a benefit offence. These rules also apply in relation to payments of benefit to members of offenders’ families. The penalty may result in a total loss of benefit or a reduction in benefit for four weeks, 13 weeks, 26 weeks or three years.

These Regulations make provision as to how the loss of benefit regime will apply to universal credit, a new benefit introduced by Part 1 of the Welfare Reform Act 2012 (c. 5) (“the 2012 Act”). In particular, the regulations deal with the appropriate start date for disqualification period for persons entitled to universal credit (regulation 4(3), (5) and (7) and 5(3), (5) and (6)(b)), the amount of the reduction in universal credit (regulation 9) and entitlement to, and recoverability of, hardship payments where universal credit is reduced either by virtue of provision made by these Regulations or sanctions under section 26 or 27 of the 2012 Act (regulation 14).

These Regulations also make other amendments to the 2001 Regulations.

Regulations 4(2), (4) and (6) and 5(2), (4) and (6) specify what is to be start date for the disqualification period where the offender is in receipt of a benefit which is payable neither wholly in advance nor in arrears.

Regulation 6 prescribes the offences, conviction for which will result in a three year loss of benefit penalty. By virtue of section 118(5) of the 2012 Act, this applies where the court has found, in relation to those offences, that there was an overpayment of at least £50,000, the offence has been punished by a custodial sentence of at least one year (including a suspended sentence) or, in the case of certain offences, the court has found that the offence was committed over a period of at least two years.

Regulation 8 makes provision relating to the amount of reductions where an offender is in receipt of an income-related employment and support allowance replacing the provisions which previously applied. Regulation 7 makes consequential provision in that regard.

Regulation 10 updates a reference in the relevant regulation to persons over the age of 16 in respect of whom child benefit is payable.

Regulations 11(2) and 12 make amendments consequential on the introduction of personal independence payment. Regulation 11(3) and (4) makes consequential amendments as a result of changes to the provisions relating to sanctions in jobseeker's allowance made by the 2012 Act.

Regulation 13 allows an income-related employment and support allowance to be payable to an offender or an offender's family member at a reduced rate where it would otherwise not be payable by operation of the 2001 Act if they would be entitled to a hardship payment under regulation 62A of the Employment and Support Allowance Regulations 2008 (S.I. 2008/794).

Regulation 15 updates the list of benefits which are not sanctionable to reflect the current references in armed forces pensions legislation.

A full impact assessment has not been produced for this instrument as it has no impact on the private sector or civil society organisations.

