This Draft Statutory Instrument has been published in consequence of defects in S.I. 2013/379 and S.I. 2015/173 and is being issued free of charge to all known recipients of those Statutory Instruments.

Draft Regulations laid before Parliament under section 54(2)(a) of the Pensions Act 2014 (c. 19), for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2026 No.

SOCIAL SECURITY

The Social Security (Persons Detained in Hospital) (Amendment) Regulations 2026

Made - - - -	***
Coming into force - -	*6th April 2027*

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 113(1)(b) and 175(1) and (3) of the Social Security Contributions and Benefits Act 1992(**a**), sections 2(3), (6) and (9), 3(8) and 19(1) of the State Pension Credit Act 2002(**b**), sections 2(1)(a) and (4)(c), 18(4)(b) and 25(2) and (3) of the Welfare Reform Act 2007(**c**), sections 6(1)(a) and 42(1) and (2) of the Welfare Reform Act 2012(**d**) and sections 19(1) and 54(5) of the Pensions Act 2014(**e**).

In accordance with section 173(1)(b) of the Social Security Administration Act 1992(**f**), the Social Security Advisory Committee has agreed that the proposals in respect of these Regulations should not be referred to it.

A draft of these Regulations has been laid before Parliament in accordance with section 54(2)(a) of the Pensions Act 2014 and approved by a resolution of each House of Parliament.

(**a**) 1992 c. 4. Section 113(1) was amended by paragraph 38 of Schedule 24 to the Civil Partnership Act 2004 (c. 33). Section 175(1) was amended by paragraph 29 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2).
(**b**) 2002 c. 16. See section 17(1) for the definitions of "prescribed" and "regulations". Section 175(1) and (3) of the Social Security Contributions and Benefits Act 1992 is applied to provisions of the State Pension Credit Act 2002 by section 19(1) of that Act.
(**c**) 2007 c. 5. Section 2(1) was amended by paragraph 24 of Schedule 3 to the Welfare Reform Act 2012 (c. 5). Section 18(4) was amended by paragraph 26(d) of Schedule 3 to the Welfare Reform Act 2012. See section 24(1) for the definitions of "prescribed" and "regulations".
(**d**) 2012 c. 5. See section 40 for the definition of "prescribed".
(**e**) 2014 c. 19. See section 22(1) for the definition of "regulations".
(**f**) 1992 c. 5.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Social Security (Persons Detained in Hospital) (Amendment) Regulations 2026 and come into force on 6th April 2027.

(2) These Regulations extend to England and Wales and Scotland.

Amendment of the Social Security (General Benefit) Regulations 1982

2.—(1) The Social Security (General Benefit) Regulations 1982(**a**) are amended as follows.

(2) In regulation 2 (exceptions from disqualification for imprisonment etc)—

(a) after paragraph (2) insert—

"(2A) Paragraph (2) does not apply in a case to which paragraph (4B) applies.";

(b) at the end of paragraph (3) insert "or unless paragraph (4B) applies";

(c) in paragraph (4)(b) after "within the meaning of section 50(3) of that Act," insert "apart from a case where P has been convicted of a serious offence,";

(d) after paragraph (4A) insert—

"(4B) This paragraph applies in relation to a shared additional pension, retirement pension of any category or age addition(**b**) in a case where P is being detained in hospital under section 37 of the Mental Health Act 1983(**c**) (powers of courts to order hospital admission or guardianship) or section 57A of the Criminal Procedure (Scotland) Act 1995(**d**) (compulsion order) following P's conviction of a serious offence.";

(e) after paragraph (8) insert—

"(8A) For the purposes of this regulation, "serious offence" means any of the offences referred to in paragraphs (8B) to (8D).

(8B) The offences referred to in this paragraph are any of the following offences under the law of England and Wales—

(a) manslaughter;

(b) an offence under section 18 of the Offences Against the Person Act 1861(**e**) (wounding with intent to cause grievous bodily harm);

(c) an offence under section 1 of the Indecency with Children Act 1960(**f**) (indecent conduct towards young child);

(d) an offence under section 1 of the Criminal Attempts Act 1981(**g**) (attempting to commit an offence) of attempting to commit murder;

(e) an offence under any of the following provisions of the Sexual Offences Act 1956(**h**)—

(**a**) S.I. 1982/1408; relevant amending instruments are S.I. 1983/186, 1984/1303, 1991/2742, 1995/829, 1996/425, 2005/1551 and 2878, 2010/442 and 2017/422.

(**b**) Retirement pensions are provided for in sections 43 to 55 of the Social Security Contributions and Benefits Act 1992 (c. 4). "Age addition" is defined in section 79 of that Act.

(**c**) 1983 c. 20.

(**d**) 1995 c. 46. Section 57A was inserted by section 133 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13).

(**e**) 1861 c. 100. Section 18 was amended by the Statute Law Revision Act 1892 (c. 19), the Statute Law Revision (No. 2) Act 1893 (c. 54) and Schedule 3 to the Criminal Law Act 1967 (c. 58).

(**f**) 1960 c. 33. Section 1 was repealed by Schedule 7 to the Sexual Offences Act 2003 (c. 42).

(**g**) 1981 c. 47. Section 1 was amended by section 7(3) of the Computer Misuse Act 1990 (c. 18), paragraph 58 of Schedule 21 to the Coroners and Justice Act 2009 (c. 25), section 176(5)(a) of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12) and paragraph 9 of Schedule 14 to the Online Safety Act 2023 (c. 50).

(**h**) 1956 c. 69. Sections 1, 5, 10, 11, 14 and 15 were repealed by Schedule 7 to the Sexual Offences Act 2003 (c. 42).

(i) section 1 (rape of woman or man);

(ii) section 5 (intercourse with girl under thirteen);

(iii) section 10 (incest by a man);

(iv) section 11 (incest by a woman);

(v) section 14 (indecent assault on a woman);

(vi) section 15 (indecent assault on a man);

(f) an offence under any of the following provisions of the Sexual Offences Act 2003(**a**)—

(i) section 1 (rape);

(ii) section 2 (assault by penetration);

(iii) section 4 (causing a person to engage in sexual activity without consent), where the activity caused involved penetration within subsection (4)(a) to (d) of that section;

(iv) section 5 (rape of a child under 13);

(v) section 6 (assault of a child under 13 by penetration);

(vi) section 7 (sexual assault of a child under 13);

(vii) section 8 (causing or inciting a child under 13 to engage in sexual activity), where the activity caused or incited involved penetration within subsection (2)(a) to (d) of that section;

(viii) section 9 (sexual activity with a child), where the touching involved penetration within subsection (2)(a) to (d) of that section;

(ix) section 10 (causing or inciting a child to engage in sexual activity), where the activity caused or incited involved penetration within subsection (2)(a) to (d) of that section;

(x) section 25 (sexual activity with a child family member), where the person guilty of the offence was aged 18 or over at the time of the offence;

(xi) section 26 (inciting a child family member to engage in sexual activity), where the person guilty of the offence was aged 18 or over at the time of the offence.

(8C) The offences referred to in this paragraph are any of the following offences under the law of Scotland—

(a) culpable homicide;

(b) an offence committed by attempting or conspiring to commit the offence of murder;

(c) an offence under section 1 of the Criminal Law (Consolidation) (Scotland) Act 1995(**b**) (incest);

(d) an offence under any of the following provisions of the Sexual Offences (Scotland) Act 2009(**c**)—

(i) section 1 (rape);

(ii) section 2 (sexual assault by penetration);

(**a**) 2003 c. 42.
(**b**) 1995 c. 39. Section 1 was amended by paragraph 55 of Schedule 6 to the Human Fertilisation and Embryology Act 2008 (c. 22).
(**c**) 2009 asp 9.

(iii) section 4 (sexual coercion);

(iv) section 18 (rape of a young child);

(v) section 19 (sexual assault on a young child by penetration);

(vi) section 20 (sexual assault on a young child);

(vii) section 21 (causing a young child to participate in a sexual activity);

(viii) section 28 (having intercourse with an older child);

(ix) section 29 (engaging in penetrative sexual activity with or towards an older child);

(x) section 30 (engaging in sexual activity with or towards an older child);

(xi) section 31 (causing an older child to participate in a sexual activity);

(e) an offence against a law of Scotland that is no longer in force where, if committed on 6th April 2027, the conduct constituting the offence would have constituted an offence against one of the provisions of the Sexual Offences (Scotland) Act 2009 listed above.

(8D) The offences referred to in this paragraph are an offence under the law of Northern Ireland corresponding to any of the offences listed in paragraph (8B).".

Amendment of the State Pension Credit Regulations 2002

3.—(1) The State Pension Credit Regulations 2002(**a**) are amended as follows.

(2) In regulation 1 (citation, commencement and interpretation) after paragraph (2) insert—

"(2A) In these Regulations, "serious offence" means any of the offences referred to in paragraphs (2B) to (2D).

(2B) The offences referred to in this paragraph are any of the following offences under the law of England and Wales—

(a) manslaughter;

(b) an offence under section 18 of the Offences Against the Person Act 1861 (wounding with intent to cause grievous bodily harm);

(c) an offence under section 1 of the Indecency with Children Act 1960 (indecent conduct towards young child);

(d) an offence under section 1 of the Criminal Attempts Act 1981 (attempting to commit an offence) of attempting to commit murder;

(e) an offence under any of the following provisions of the Sexual Offences Act 1956—

(i) section 1 (rape of woman or man);

(ii) section 5 (intercourse with girl under thirteen);

(iii) section 10 (incest by a man);

(iv) section 11 (incest by a woman);

(v) section 14 (indecent assault on a woman);

(vi) section 15 (indecent assault on a man);

(f) an offence under any of the following provisions of the Sexual Offences Act 2003—

(**a**) S.I. 2002/1792; relevant amending instruments are S.I. 2005/3360, 2006/588 and 2010/442.

(i) section 1 (rape);

(ii) section 2 (assault by penetration);

(iii) section 4 (causing a person to engage in sexual activity without consent), where the activity caused involved penetration within subsection (4)(a) to (d) of that section;

(iv) section 5 (rape of a child under 13);

(v) section 6 (assault of a child under 13 by penetration);

(vi) section 7 (sexual assault of a child under 13);

(vii) section 8 (causing or inciting a child under 13 to engage in sexual activity), where the activity caused or incited involved penetration within subsection (2)(a) to (d) of that section;

(viii) section 9 (sexual activity with a child), where the touching involved penetration within subsection (2)(a) to (d) of that section;

(ix) section 10 (causing or inciting a child to engage in sexual activity), where the activity caused or incited involved penetration within subsection (2)(a) to (d) of that section;

(x) section 25 (sexual activity with a child family member), where the person guilty of the offence was aged 18 or over at the time of the offence;

(xi) section 26 (inciting a child family member to engage in sexual activity), where the person guilty of the offence was aged 18 or over at the time of the offence.

(2C) The offences referred to in this paragraph are any of the following offences under the law of Scotland—

(a) culpable homicide;

(b) an offence committed by attempting or conspiring to commit the offence of murder;

(c) an offence under section 1 of the Criminal Law (Consolidation) (Scotland) Act 1995 (incest);

(d) an offence under any of the following provisions of the Sexual Offences (Scotland) Act 2009—

(i) section 1 (rape);

(ii) section 2 (sexual assault by penetration);

(iii) section 4 (sexual coercion);

(iv) section 18 (rape of a young child);

(v) section 19 (sexual assault on a young child by penetration);

(vi) section 20 (sexual assault on a young child);

(vii) section 21 (causing a young child to participate in a sexual activity);

(viii) section 28 (having intercourse with an older child);

(ix) section 29 (engaging in penetrative sexual activity with or towards an older child);

(x) section 30 (engaging in sexual activity with or towards an older child);

(xi) section 31 (causing an older child to participate in a sexual activity);

(e) an offence against a law of Scotland that is no longer in force where, if committed on 6th April 2027, the conduct constituting the offence would have constituted

an offence against one of the provisions of the Sexual Offences (Scotland) Act 2009 listed above.

(2D) The offences referred to in this paragraph are an offence under the law of Northern Ireland corresponding to any of the offences listed in paragraph (2B).".

(3) In regulation 8 (special groups) for "and persons serving a sentence of imprisonment detained in hospital" substitute ", persons serving a sentence of imprisonment detained in hospital and persons detained in hospital who are convicted of a serious offence".

(4) In Schedule 3 (special groups)—

(a) in paragraph 2(1A)(b) (persons serving a sentence of imprisonment detained in hospital) after "within the meaning of section 50(3) of that Act," insert "apart from a case where C has been convicted of a serious offence,";

(b) after paragraph 2 (persons serving a sentence of imprisonment detained in hospital) insert—

"Persons detained in hospital who are convicted of a serious offence

3. In the case of a claimant who is being detained in hospital under section 37 of the Mental Health Act 1983 (powers of courts to order hospital admission or guardianship) or section 57A of the Criminal Procedure (Scotland) Act 1995 (compulsion order) following their conviction of a serious offence—

(a) section 2(3) has effect with the substitution of a reference to a nil amount for the reference to the standard minimum guarantee in paragraph (a), and nil is the prescribed additional amount for the purposes of paragraph (b); and

(b) the maximum amount of savings credit shall be taken to be nil.".

Amendment of the Universal Credit Regulations 2013

4.—(1) The Universal Credit Regulations 2013(**a**) are amended as follows.

(2) In regulation 19 (restrictions on entitlement – prisoners etc.)—

(a) at the end of paragraph (1)(b) omit "or";

(b) after paragraph (1)(c) insert "; or

(d) being detained in hospital under section 37 of the Mental Health Act 1983 (powers of courts to order hospital admission or guardianship) or section 57A of the Criminal Procedure (Scotland) Act 1995 (compulsion order) following their conviction of a serious offence.";

(c) at the beginning of paragraph (4)(a)(ii) insert "except where the person has been convicted of a serious offence,";

(d) after paragraph (4) insert—

"(5) In this regulation, "serious offence" means any of the offences referred to in paragraphs (6) to (8).

(6) The offences referred to in this paragraph are any of the following offences under the law of England and Wales—

(a) manslaughter;

(b) an offence under section 18 of the Offences Against the Person Act 1861 (wounding with intent to cause grievous bodily harm);

(**a**) S.I. 2013/376; relevant amending instrument is S.I. 2013/630.

(c) an offence under section 1 of the Indecency with Children Act 1960 (indecent conduct towards young child);

(d) an offence under section 1 of the Criminal Attempts Act 1981 (attempting to commit an offence) of attempting to commit murder;

(e) an offence under any of the following provisions of the Sexual Offences Act 1956—

(i) section 1 (rape of woman or man);

(ii) section 5 (intercourse with girl under thirteen);

(iii) section 10 (incest by a man);

(iv) section 11 (incest by a woman);

(v) section 14 (indecent assault on a woman);

(vi) section 15 (indecent assault on a man);

(f) an offence under any of the following provisions of the Sexual Offences Act 2003—

(i) section 1 (rape);

(ii) section 2 (assault by penetration);

(iii) section 4 (causing a person to engage in sexual activity without consent), where the activity caused involved penetration within subsection (4)(a) to (d) of that section;

(iv) section 5 (rape of a child under 13);

(v) section 6 (assault of a child under 13 by penetration);

(vi) section 7 (sexual assault of a child under 13);

(vii) section 8 (causing or inciting a child under 13 to engage in sexual activity), where the activity caused or incited involved penetration within subsection (2)(a) to (d) of that section;

(viii) section 9 (sexual activity with a child), where the touching involved penetration within subsection (2)(a) to (d) of that section;

(ix) section 10 (causing or inciting a child to engage in sexual activity), where the activity caused or incited involved penetration within subsection (2)(a) to (d) of that section;

(x) section 25 (sexual activity with a child family member), where the person guilty of the offence was aged 18 or over at the time of the offence;

(xi) section 26 (inciting a child family member to engage in sexual activity), where the person guilty of the offence was aged 18 or over at the time of the offence.

(7) The offences referred to in this paragraph are any of the following offences under the law of Scotland—

(a) culpable homicide;

(b) an offence committed by attempting or conspiring to commit the offence of murder;

(c) an offence under section 1 of the Criminal Law (Consolidation) (Scotland) Act 1995 (incest);

(d) an offence under any of the following provisions of the Sexual Offences (Scotland) Act 2009—

(i) section 1 (rape);

(ii) section 2 (sexual assault by penetration);

(iii) section 4 (sexual coercion);

(iv) section 18 (rape of a young child);

(v) section 19 (sexual assault on a young child by penetration);

(vi) section 20 (sexual assault on a young child);

(vii) section 21 (causing a young child to participate in a sexual activity);

(viii) section 28 (having intercourse with an older child);

(ix) section 29 (engaging in penetrative sexual activity with or towards an older child);

(x) section 30 (engaging in sexual activity with or towards an older child);

(xi) section 31 (causing an older child to participate in a sexual activity);

(e) an offence against a law of Scotland that is no longer in force where, if committed on 6th April 2027, the conduct constituting the offence would have constituted an offence against one of the provisions of the Sexual Offences (Scotland) Act 2009 listed above.

(8) The offences referred to in this paragraph are an offence under the law of Northern Ireland corresponding to any of the offences listed in paragraph (6).".

Amendment of the Employment and Support Allowance Regulations 2013

5.—(1) The Employment and Support Allowance Regulations 2013(**a**) are amended as follows.

(2) In regulation 63 (special cases)—

(a) in paragraph (1) omit sub-paragraph (a);

(b) omit paragraphs (3) and (4);

(c) in paragraph (5) in the definition of "patient" omit "(other than a prisoner)";

(d) in paragraph (5) omit the definition of "prisoner".

(3) In regulation 96 (exceptions from disqualification for imprisonment)—

(a) in paragraph (2) after sub-paragraph (b) insert "unless it is a case to which paragraph (5A) applies";

(b) at the end of paragraph (3) insert "or paragraph (5A) applies";

(c) in paragraph (4)(b) after "within the meaning of section 50(3) of that Act," insert "apart from a case where C has been convicted of a serious offence,";

(d) after paragraph (5) insert—

"(5A) This paragraph applies where C is being detained in hospital under section 37 of the Mental Health Act 1983 (powers of courts to order hospital admission or guardianship) or section 57A of the Criminal Procedure (Scotland) Act 1995 (compulsion order) following their conviction of a serious offence.";

(e) after paragraph (6) insert—

"(6A) For the purposes of this regulation, "serious offence" means any of the offences referred to in paragraphs (6B) to (6D).

(**a**) S.I. 2013/379; relevant amending instruments are S.I. 2018/228 and 2020/1236.

(6B) The offences referred to in this paragraph are any of the following offences under the law of England and Wales—

(a) manslaughter;

(b) an offence under section 18 of the Offences Against the Person Act 1861 (wounding with intent to cause grievous bodily harm);

(c) an offence under section 1 of the Indecency with Children Act 1960 (indecent conduct towards young child);

(d) an offence under section 1 of the Criminal Attempts Act 1981 (attempting to commit an offence) of attempting to commit murder;

(e) an offence under any of the following provisions of the Sexual Offences Act 1956—

(i) section 1 (rape of woman or man);

(ii) section 5 (intercourse with girl under thirteen);

(iii) section 10 (incest by a man);

(iv) section 11 (incest by a woman);

(v) section 14 (indecent assault on a woman);

(vi) section 15 (indecent assault on a man);

(f) an offence under any of the following provisions of the Sexual Offences Act 2003—

(i) section 1 (rape);

(ii) section 2 (assault by penetration);

(iii) section 4 (causing a person to engage in sexual activity without consent), where the activity caused involved penetration within subsection (4)(a) to (d) of that section;

(iv) section 5 (rape of a child under 13);

(v) section 6 (assault of a child under 13 by penetration);

(vi) section 7 (sexual assault of a child under 13);

(vii) section 8 (causing or inciting a child under 13 to engage in sexual activity), where the activity caused or incited involved penetration within subsection (2)(a) to (d) of that section;

(viii) section 9 (sexual activity with a child), where the touching involved penetration within subsection (2)(a) to (d) of that section;

(ix) section 10 (causing or inciting a child to engage in sexual activity), where the activity caused or incited involved penetration within subsection (2)(a) to (d) of that section;

(x) section 25 (sexual activity with a child family member), where the person guilty of the offence was aged 18 or over at the time of the offence;

(xi) section 26 (inciting a child family member to engage in sexual activity), where the person guilty of the offence was aged 18 or over at the time of the offence.

(6C) The offences referred to in this paragraph are any of the following offences under the law of Scotland—

(a) culpable homicide;

(b) an offence committed by attempting or conspiring to commit the offence of murder;

(c) an offence under section 1 of the Criminal Law (Consolidation) (Scotland) Act 1995 (incest);

(d) an offence under any of the following provisions of the Sexual Offences (Scotland) Act 2009—

(i) section 1 (rape);

(ii) section 2 (sexual assault by penetration);

(iii) section 4 (sexual coercion);

(iv) section 18 (rape of a young child);

(v) section 19 (sexual assault on a young child by penetration);

(vi) section 20 (sexual assault on a young child);

(vii) section 21 (causing a young child to participate in a sexual activity);

(viii) section 28 (having intercourse with an older child);

(ix) section 29 (engaging in penetrative sexual activity with or towards an older child);

(x) section 30 (engaging in sexual activity with or towards an older child);

(xi) section 31 (causing an older child to participate in a sexual activity);

(e) an offence against a law of Scotland that is no longer in force where, if committed on 6th April 2027, the conduct constituting the offence would have constituted an offence against one of the provisions of the Sexual Offences (Scotland) Act 2009 listed above.

(6D) The offences referred to in this paragraph are an offence under the law of Northern Ireland corresponding to any of the offences listed in paragraph (6B).".

Amendment of the State Pension Regulations 2015

6.—(1) The State Pension Regulations 2015(**a**) are amended as follows.

(2) In regulation 2 (prisoners who are not to be paid state pension)—

(a) in paragraph (2)(c)(i) for "section 47 of the Mental Health Act 1983 (removal to hospital of persons serving sentences of imprisonment etc)" substitute "section 45A or 47 of the Mental Health Act 1983 (power of higher courts to direct hospital admission; removal to hospital of persons serving sentences of imprisonment etc.)"(**b**);

(b) at the beginning of paragraph (2)(c)(ii) insert "except where the person has been convicted of a serious offence,";

(c) in paragraph (2)(d) before "section 136 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (transfer of prisoners for treatment of mental disorder)" insert "section 59A of the Criminal Procedure (Scotland) Act 1995 (hospital direction) or"(**c**);

(d) after paragraph (2)(d) insert "; or

(**a**) S.I. 2015/173.

(**b**) Section 45A was inserted by section 46 of the Crime (Sentences) Act 1997 (c. 43) and amended by paragraph 39 of Schedule 32, and Part 7 of Schedule 37 to, the Criminal Justice Act 2003 (c. 44), sections 4(6) and 10(8) of, paragraph 9 of Schedule 1, and Part 1 of Schedule 11 to, the Mental Health Act 2007 (c. 12). Section 47 was amended by section 49(3) of, and Schedule 6 to, the Crime (Sentences) Act 1997, paragraph 18 of Schedule 10 to the Domestic Violence, Crime and Victims Act 2004 (c. 28), paragraph 97 of Schedule 16 to the Armed Forces Act 2006 (c. 52), and section 4(7) of, paragraph 10 of Schedule 1, and Part 1 of Schedule 11 to, the Mental Health Act 2007.

(**c**) Section 59A was inserted by section 133 of the Mental Health (Care and Treatment) (Scotland) Act 2003.

(e) a prisoner in Great Britain who is being detained in hospital under section 37 of the Mental Health Act 1983 (powers of courts to order hospital admission or guardianship) or section 57A of the Criminal Procedure (Scotland) Act 1995 (compulsion order) following their conviction of a serious offence.";

(e) after paragraph (4) insert—

"(5) In this regulation, "serious offence" means any of the offences referred to in paragraphs (6) to (8).

(6) The offences referred to in this paragraph are any of the following offences under the law of England and Wales—

(a) manslaughter;

(b) an offence under section 18 of the Offences Against the Person Act 1861 (wounding with intent to cause grievous bodily harm);

(c) an offence under section 1 of the Indecency with Children Act 1960 (indecent conduct towards young child);

(d) an offence under section 1 of the Criminal Attempts Act 1981 (attempting to commit an offence) of attempting to commit murder;

(e) an offence under any of the following provisions of the Sexual Offences Act 1956—

(i) section 1 (rape of woman or man);

(ii) section 5 (intercourse with girl under thirteen);

(iii) section 10 (incest by a man);

(iv) section 11 (incest by a woman);

(v) section 14 (indecent assault on a woman);

(vi) section 15 (indecent assault on a man);

(f) an offence under any of the following provisions of the Sexual Offences Act 2003—

(i) section 1 (rape);

(ii) section 2 (assault by penetration);

(iii) section 4 (causing a person to engage in sexual activity without consent), where the activity caused involved penetration within subsection (4)(a) to (d) of that section;

(iv) section 5 (rape of a child under 13);

(v) section 6 (assault of a child under 13 by penetration);

(vi) section 7 (sexual assault of a child under 13);

(vii) section 8 (causing or inciting a child under 13 to engage in sexual activity), where the activity caused or incited involved penetration within subsection (2)(a) to (d) of that section;

(viii) section 9 (sexual activity with a child), where the touching involved penetration within subsection (2)(a) to (d) of that section;

(ix) section 10 (causing or inciting a child to engage in sexual activity), where the activity caused or incited involved penetration within subsection (2)(a) to (d) of that section;

(x) section 25 (sexual activity with a child family member), where the person guilty of the offence was aged 18 or over at the time of the offence;

(xi) section 26 (inciting a child family member to engage in sexual activity), where the person guilty of the offence was aged 18 or over at the time of the offence.

(7) The offences referred to in this paragraph are any of the following offences under the law of Scotland—

(a) culpable homicide;

(b) an offence committed by attempting or conspiring to commit the offence of murder;

(c) an offence under section 1 of the Criminal Law (Consolidation) (Scotland) Act 1995 (incest);

(d) an offence under any of the following provisions of the Sexual Offences (Scotland) Act 2009—

(i) section 1 (rape);

(ii) section 2 (sexual assault by penetration);

(iii) section 4 (sexual coercion);

(iv) section 18 (rape of a young child);

(v) section 19 (sexual assault on a young child by penetration);

(vi) section 20 (sexual assault on a young child);

(vii) section 21 (causing a young child to participate in a sexual activity);

(viii) section 28 (having intercourse with an older child);

(ix) section 29 (engaging in penetrative sexual activity with or towards an older child);

(x) section 30 (engaging in sexual activity with or towards an older child);

(xi) section 31 (causing an older child to participate in a sexual activity);

(e) an offence against a law of Scotland that is no longer in force where, if committed on 6th April 2027, the conduct constituting the offence would have constituted an offence against one of the provisions of the Sexual Offences (Scotland) Act 2009 listed above.

(8) The offences referred to in this paragraph are an offence under the law of Northern Ireland corresponding to any of the offences listed in paragraph (6).”.

Secretary of State for Work and Pensions
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for disqualification from certain social security benefits of persons detained in hospital under section 37 of the Mental Health Act 1983 (c. 20), and corresponding Scottish legislation, following their conviction of a serious offence ("section 37 offenders"). The Regulations also provide for persons detained in hospital under sections 45A or 47 of the Mental Health Act 1983 who have been convicted of a serious offence to remain disqualified from those benefits after their release date until discharge from hospital.

"Serious offence" is defined and includes manslaughter, attempted murder, wounding with intent to cause grievous bodily harm and a list of sexual offences under the Sexual Offences Act 2003 (c. 42) and its predecessor the Sexual Offences Act 1956 (c. 69), and equivalent offences under the legislation of Scotland and Northern Ireland.

Regulation 2 amends the Social Security (General Benefit) Regulations 1982 (S.I. 1982/1408) ("the General Benefit Regulations"). Section 113 of the Social Security Contributions and Benefits Act 1992 (c. 4) disqualifies persons who are undergoing imprisonment or detention in legal custody from benefits under Parts 2 to 5 of that Act. Regulation 2 of the General Benefit Regulations creates exceptions, which include a general exception for those detained in hospital for a mental health disorder. Persons who are serving their prison sentence in hospital, and have not reached their release date, are excluded from that exception. Regulation 2 extends that exclusion to section 37 offenders in relation to any shared additional pension, retirement pensions of all categories or age addition. It also extends the exclusion to those detained in hospital under sections 45A or 47 of the Mental Health Act 1983 after their sentence's release date if they have been convicted of a serious offence.

Regulation 3 amends the State Pension Credit Regulations 2002 (S.I. 2002/1792). Regulation 8 of, and Schedule 3 to, those Regulations (special cases) already prescribe the nil rate for the guarantee credit and savings credit in the case of offenders serving their sentence in hospital. Regulation 3 extends that rate to section 37 offenders. It also provides for the nil rate to apply to those detained in hospital under sections 45A or 47 of the Mental Health Act 1983 beyond their sentence's release date where they have committed a serious offence.

Regulation 4 amends the Universal Credit Regulations 2013 (S.I. 2013/376). Regulation 19 of those Regulations already restricts those serving a sentence in hospital from entitlement to universal credit and regulation 4 extends this restriction to section 37 offenders. It also extends the restriction to those detained in hospital under sections 45A or 47 of the Mental Health Act 1983 after their sentence's release date if they have been convicted of a serious offence.

Regulation 5 amends the Employment and Support Allowance Regulations 2013 (S.I. 2013/379). Section 18(4) of the Welfare Reform Act 2007 (c. 5) disqualifies those undergoing imprisonment or detention in legal custody from the allowance. Regulation 96 of those Regulations provides for exceptions, which include a general exception for those detained in hospital for a mental health disorder. Persons who are serving their prison sentence in hospital, and have not reached their release date, are excluded from that exception. Regulation 5 further excludes section 37 offenders from that exception and also excludes those detained in hospital under sections 45A or 47 of the Mental Health Act 1983 after their sentence's release date if they are convicted of a serious offence. Regulation 5 also corrects an error in regulation 63 whereby a rate of the allowance is prescribed for claimants who are disqualified by virtue of section 18(4).

Regulation 6 amends the State Pension Regulations 2015 (S.I. 2015/173), in relation to state pension under the Pensions Act 2014 (c. 19). Regulation 2 of those Regulations provides for disqualification of those imprisoned or detained in legal custody, with a general exception for those receiving treatment for a mental disorder. Those serving a sentence in hospital are already excluded from that exception. Regulation 6 extends this to section 37 offenders. It also extends the exclusion to those detained in hospital under section 45A or 47 of the Mental Health Act 1983 after their sentence's release date if they have been convicted of a serious offence. Regulation 6 also corrects an omission in regulation 2.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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