
STATUTORY INSTRUMENTS

1988 No. 664

The Social Security (Payments on account,
Overpayments and Recovery) Regulations 1988

PART VII

THE PROCESS OF RECOVERY

Recovery by deduction from prescribed benefits

15.—(1) Subject to regulation 16, where any amount is recoverable under sections 27 or 53(1) of the Act, or under these Regulations, that amount shall be recoverable by the Secretary of State from any of the benefits prescribed by the next paragraph to which the person from whom it is determined the amount to be recoverable is entitled.

(2) The following benefits are prescribed for the purposes of this regulation—

- (a) subject to paragraphs (1) and (2) of regulation 16, any benefit under the Social Security Act 1975⁽¹⁾;
- (b) subject to paragraphs (1) and (2) of regulation 16, any child benefit;
- (c) any family credit;
- (d) subject to regulation 16, any income support.

Limitations on deductions from prescribed benefits

16.—(1) Deductions may not be made from entitlement to the benefits prescribed by paragraph (2) except as a means of recovering an overpayment of the benefit from which the deduction is to be made.

(2) The benefits specified for the purposes of paragraph (1) are guardian's allowance, attendance allowance in respect of a child, arising under section 35(1) to (4) of the Social Security Act 1975 as modified by regulation 6 of the Social Security (Attendance Allowance) (No. 2) Regulations 1975⁽²⁾, and child benefit.

(3) Regulation 15 shall apply without limitation to any payment of arrears of benefit other than any arrears caused by the operation of regulation 37(1) of the Claims and Payments Regulations (suspension of payments).

(4) Regulation 15 shall apply to the amount of income support to which a person is presently entitled only to the extent that there may, subject to paragraphs 8 and 9 of Schedule 9 to the Claims and Payments Regulations, be recovered in respect of any one benefit week—

- (a) in a case to which paragraph (5) applies, not more than the amount there specified; and

(1) 1975 c. 14.

(2) S.I.1975/598, amended by S.I. 1977/1361.

- (b) in any other case, 3 times 5 per cent. of the personal allowance for a single claimant aged not less than 25, that 5 per cent. being, where it is not a multiple of 5 pence, rounded to the next higher such multiple.

(5) Where the person responsible for the misrepresentation of or failure to disclose a material fact has, by reason thereof, been found guilty of an offence under section 55 of the Act or under any other enactment, or has made a written statement after caution in admission of deception or fraud for the purpose of obtaining benefit, the amount mentioned in paragraph (4)(a) shall be 4 times 5 per cent. of the personal allowance for a single claimant aged not less than 25, that 5 per cent. being, where it is not a multiple of 10 pence, rounded to the nearest such multiple or, if it is a multiple of 5 pence but not of 10 pence, the next higher multiple of 10 pence.

(6) Where, in the calculation of the income of a person to whom the income support is payable, the amount of earnings or other income falling to be taken into account is reduced by paragraphs 4 to 9 of Schedule 8 to the Income Support Regulations (sums to be disregarded in the calculation of earnings) or paragraphs 15 and 16 of Schedule 9 to those Regulations (sums to be disregarded in the calculation of income other than earnings) the weekly amount applicable under paragraph (4) may be increased by not more than half the amount of the reduction, and any increase under this paragraph has priority over any increase which would, but for this paragraph, be made under paragraph 6(5) of Schedule 9 to the Claims and Payments Regulations.

(7) Regulation 15 shall not be applied to a specified benefit so as to reduce the benefit in any one benefit week to less than 10 pence.

(8) In this regulation—

“benefit week” means the week corresponding to the week in respect of which the benefit is paid;

“personal allowance for a single claimant aged not less than 25” means the amount specified in paragraph 1(1)(c) of column 2 of Schedule 2 to the Income Support Regulations;

“specified benefit” means income support either alone or together with any unemployment, sickness or invalidity benefit, retirement pension or severe disablement allowance which is paid by means of the same instrument of payment;

“written statement after caution” means—

- (i) in England and Wales, a written statement made in accordance with the Police and Criminal Evidence Act 1984 (Codes of Practice) (No.1) Order 1985(3), or, before that Order came into operation, the Judges Rules;
- (ii) in Scotland, a written statement duly witnessed by 2 persons.

Recovery from couples

17. In the case of an overpayment of income support or family credit to one of a married or unmarried couple, the amount recoverable by deduction, in accordance with regulation 15, may be recovered by deduction from income support or family credit payable to either of them, provided that the two of them are a married or unmarried couple at the date of the deduction. rable by deduction, in accordance with regulation 15, may be recovered by deduction from income support or family credit payable to either of them, provided that the two of them are a married or unmarried couple at the date of the deduction.