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STATUTORY INSTRUMENTS

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**1990 No. 322**

**The Social Security (Recoupment) Regulations 1990,**

**PART II**

**BENEFITS AND PAYMENTS**

**Relevant benefits**

2.—(1) The following benefits are relevant benefits for the purposes of section 22 of the 1989 Act—

- (a) attendance allowance,
- (b) disablement benefit (including disablement pensions) payable in accordance with sections 57 to 63 of the principal Act,
- (c) family credit,
- [<sup>F1</sup>(ca) incapacity benefit;]
- (d) income support, under Part II of the Social Security Act 1986 <sup>M1</sup>, including personal expenses addition, special transitional additions and transitional addition as defined in the Income Support (Transitional) Regulations 1987 <sup>M2</sup>,
- (e) invalidity pension and allowance,
- (f) mobility allowance,
- (g) benefits payable under schemes made under the Old Cases Act,
- (h) reduced earnings allowance,
- (i) retirement allowance,
- (j) severe disablement allowance,
- (k) sickness benefit,
- <sup>F2</sup>(l) .....
- (m) unemployment benefit,
- [<sup>F3</sup>(ma) disability living allowance,
- (mb) disability working allowance.]
- (n) any increase in any of the benefits mentioned above payable in accordance with the Social Security Acts 1975 to 1989 or the Old Cases Act or with any regulations, Order in Council, order or scheme made thereunder.
- [<sup>F4</sup>(o) jobseeker's allowance.]

(2) In paragraph (1) references to, respectively, invalidity pension and allowance, severe disablement allowance, sickness benefit and unemployment benefit include also a reference to any income support paid with each of those benefits on the same instrument of payment [<sup>F5</sup>or paid concurrently with each of those benefits by means of an instrument for benefit payment], and for

this purpose, income support includes personal expenses addition, special transitional additions and transitional addition as defined in the Income Support (Transitional) Regulations 1987.

[<sup>F6</sup>(3) [<sup>F7</sup>The amount of statutory sick pay for the purposes of section 22 of the 1989 Act (recovery of sums equivalent to benefit from compensation payments) is, in so far as it relates to any liability an employer may have to make a payment of statutory sick pay to an employee of his in respect of a day of incapacity for work falling on or after 6th April 1991, 80 per cent. of the payment of statutory sick pay which the employer is liable to make.]]

#### Textual Amendments

- F1** Reg. 2(1)(ca) inserted (13.4.1995) by [The Social Security \(Incapacity Benefit\) \(Consequential and Transitional Amendments and Savings\) Regulations 1995 \(S.I. 1995/829\)](#), regs. 1(1), **22** (with Pt. III)
- F2** Reg. 2(1)(l) deleted (6.4.1994) by S.I. 1994/730, reg. 1(1), 3 (with reg. 5)
- F3** Reg. 2(1)(ma) - Reg. 2(1)(mb) inserted (E.W.) (6.4.1992) by [The Disability Living Allowance and Disability Working Allowance \(Consequential Provisions\) Regulations 1991 \(S.I. 1991/2742\)](#), regs. 1(1), **17**
- F4** Reg. 2(1)(o) added (7.10.1996) by [The Social Security and Child Support \(Jobseeker's Allowance\) \(Consequential Amendments\) Regulations 1996 \(S.I. 1996/1345\)](#), regs. 1, **24**
- F5** Words in reg. 2(2) inserted (4.4.1996) by [The Social Security \(Claims and Payments Etc.\) Amendment Regulations 1996 \(S.I. 1996/672\)](#), regs. 1, **5**
- F6** Reg. 2(3) added (6.4.1991) by S.I. 1991/694, reg. 1(1), 3(3)
- F7** Reg. 2(3) deleted (6.4.1994) by S.I. 1994/730, reg. 1(1), 3 (with reg. 5)

#### Marginal Citations

- M1** 1986 c. 50
- M2** [S.I. 1987/1969](#); the relevant amending instruments are [S.I. 1988/521](#), 670, 1989/1626 and 2340.

#### Small payments

3.—(1) A person shall be exempted from liability to make the relevant deduction or the relevant payment where the amount of the compensation payment in question, or the aggregate amount of 2 or more connected compensation payments, does not exceed £2,500.

(2) Where an amount has been deducted and paid to the Secretary of State which, by virtue of paragraph (1), ought not to have been so deducted and paid, the Secretary of State—

- (a) Where he is satisfied that the whole of the amount ought to have been paid to the intended recipient, shall pay the whole of that amount to that person;

or

- (b) Where he is not so satisfied, shall either pay the whole of the amount to the compensator or pay to the compensator that part of the amount which he would have been entitled to retain and to the intended recipient that part which he would have been entitled to receive <sup>M3</sup>had the amount not been so deducted and paid.

#### Marginal Citations

- M3** See section 2 of the [Law Reform \(Personal Injuries\) Act 1948 \(c. 41\)](#), as amended by the Social Security Act 1989, Schedule 4, paragraph 22.

## Exempt payments

4. The following payments shall be exempt payments for the purposes of section 22 of the 1989 Act—

- (a) any payment made out of property held for the purpose of the charitable trust called the Macfarlane Trust and established partly Out of funds provided by the Secretary of State to the Haemophilia Society for the relief of poverty or distress among those suffering from haemophilia;
- (b) any compensation payment made by British Coal in accordance with the NCB Pneumoconiosis Compensation Scheme set Out in the Schedule to an agreement made on the 13th September 1974 between the National Coal Board, the National Union of Mine Workers, the National Association of Colliery Overmen Deputies and Shot-firers and the British Association of Colliery Management;
- (c) any payment made to the victim in respect of sensorineural hearing loss where the loss is less than 50 db in one or both ears; and
- (d) any contractual amount paid to an employee by an employer of his in respect of a day of incapacity for work.
- [<sup>F8</sup>(e) any payment made from the Macfarlane (Special Payments) Trust established on 29th January 1990 partly out of funds provided by the Secretary of State for the benefit of certain persons suffering from haemophilia; and
  - [ any payment made from the Macfarlane (Special Payments) (No. 2)Trust established on 3rd May 1991 partly out of funds provided by the Secretary of State, for the benefit of certain persons suffering from haemophilia and other beneficiaries;]
- (f) any payment made under the National Health Service (Injury Benefits) Regulations 1974 or the National Health Service (Scotland) (Injury Benefits) Regulations 1974.]
- [<sup>F10</sup>(g) any payment made by or on behalf of the Secretary of State for the benefit of persons eligible for payment in accordance with the provisions of a scheme established by him on 24th April 1992 or, in Scotland, on 10th April 1992.]
- [<sup>F11</sup>(h) any payment made from the Eileen Trust established on 29th March 1993 out of funds provided by the Secretary of State for the benefit of persons eligible for payment in accordance with its provisions.]

### Textual Amendments

- F8** Reg. 4(e)(f) inserted (3.9.1990) by S.I. 1990/1558, reg. 1, 2
- F9** Reg. 4(ee) inserted (11.5.1991) by S.I. 1991/1175, reg. 1, 6
- F10** Reg. 4(g) inserted (7.5.1992) by S.I. 1992/1101, reg. 1(1), 7
- F11** Reg. 4(h) inserted (14.5.1993) by S.I. 1993/1248, reg. 1(1), 7

**Changes to legislation:**

There are currently no known outstanding effects for the The Social Security (Recoupment) Regulations 1990,, PART II.