
STATUTORY INSTRUMENTS

1996 No. 2349

The Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations 1996

PART IV

DETERMINATION AND REVIEW OF BENEFIT RECOUPED

Provisions relating to determination of amount paid by way of or paid as on account of benefit

10.—(1) Without prejudice to the right of the Secretary of State to recover from an employer the recoupable benefit, an employee on whom a copy of a recoupment notice has been served in accordance with Regulation 8 above may, within 21 days of the date on which such notice was served on him or within such further time as the Secretary of State may for special reasons allow, give notice in writing to the Secretary of State that he does not accept that the amount specified in the recoupment notice in respect of jobseeker's allowance or income support is correct.

(2) Where an employee has given notice in writing to the Secretary of State under paragraph (1) above that he does not accept that an amount specified in the recoupment notice is correct, the Secretary of State shall forthwith submit to an adjudication officer the question as to the amount of jobseeker's allowance or income support, as the case may be, paid in respect of the period to which the prescribed element is attributable or, as appropriate, in respect of so much of the protected period as falls before the date on which the employer complies with Regulation 6 above and any question so submitted shall be for determination by an adjudication officer, a Social Security Appeal Tribunal and a Commissioner, in accordance with sections 21 to 25 and section 36 of the Social Security Administration Act 1992.

(3) Where—

- (a) on the determination of a question submitted to an adjudication officer under paragraph (2) above; or
- (b) on the review under section 25 of the Social Security Administration Act 1992 of a decision in pursuance of which a sum was paid by way of or paid as on account of jobseeker's allowance or income support,

the amount recovered by the Secretary of State from the employer under these Regulations exceeds the total amount paid by way of jobseeker's allowance or income support to the employee which would not have been paid if a decision on review under section 25 of the Social Security Administration Act 1992 had been made in the first instance, the Secretary of State shall pay to the employee an amount equal to such excess.

(4) In any case where, after the Secretary of State has recovered from an employer any amount by way of recoupment of benefit, the decision given by the industrial tribunal in consequence of which such recoupment took place is set aside or varied on appeal or on a re-hearing by the industrial tribunal, the Secretary of State shall make such repayment to the employer or payment to the employee of the whole or part of the amount recovered as he is satisfied should properly be made having regard to the decision given on appeal or re-hearing.

Revocation and Transition Provision

11.—(1) The Employment Protection (Recoupment of Unemployment Benefit and Supplementary Benefit) Regulations 1977⁽¹⁾ are hereby revoked.

(2) Regulation 11(1) shall not have effect in relation to awards or parts of awards made by an industrial tribunal after the date these Regulations come into force where the award or part of the award is in respect of a period before that date.

⁽¹⁾ S.I.1977/674 as amended by S.I. 1980/1608, 1984/458 and 1988/419.