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STATUTORY INSTRUMENTS

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**1996 No. 2349**

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

**PART III**

**RECOUPMENT OF BENEFIT**

**Recoupment of Benefit**

**8.—**(1) Recoupment shall be initiated by the Secretary of State serving on the employer a recoupment notice claiming by way of total or partial recoupment of jobseeker's allowance or income support the appropriate amount, computed, as the case may require, under paragraph (2) or (3) below.

(2) In the case of monetary awards the appropriate amount shall be whichever is the less of the following two sums—

- (a) the amount of the prescribed element (less any tax or social security contributions which fall to be deducted therefrom by the employer); or
- (b) the amount paid by way of or paid as on account of jobseeker's allowance or income support to the employee for any period which coincides with any part of the period to which the prescribed element is attributable.

(3) In the case of remuneration under a protective award the appropriate amount shall be whichever is the less of the following two sums—

- (a) the amount (less any tax or social security contributions which fall to be deducted therefrom by the employer) accrued due to the employee in respect of so much of the protected period as falls before the date on which the Secretary of State receives from the employer the information required under Regulation 6 above; or
- (b) the amount paid by way of or paid as on account of jobseeker's allowance or income support to the employee for any period which coincides with any part of the protected period falling before the date described in (a) above.

(4) A recoupment notice shall be served on the employer by post or otherwise and copies shall likewise be sent to the employee and, if requested, to the Secretary of the Tribunals.

(5) The Secretary of State shall serve a recoupment notice on the employer, or notify the employer that he does not intend to serve such a notice, within the period applicable, as the case may require, under paragraph (6) or (7) below, or as soon as practicable thereafter.

(6) In the case of a monetary award the period shall be—

- (a) in any case in which the tribunal at the hearing announces to the parties the effect of its decision as described in Regulation 4(4) above, the period ending 21 days after the conclusion of the hearing or the period ending 9 days after the decision has been sent to the parties, whichever is the later; or
- (b) in any other case, the period ending 21 days after the decision has been sent to the parties.

(7) In the case of a protective award the period shall be the period ending 21 days after the Secretary of State has received from the employer the information required under Regulation 6 above.

(8) A recoupment notice served on an employer shall operate as an instruction to the employer to pay, by way of deduction out of the sum due under the award, the recoupable amount to the Secretary of State and it shall be the duty of the employer to comply with the notice. The employer's duty under this paragraph shall not affect his obligation to pay any balance that may be due to the employee under the relevant award.

(9) The duty imposed on the employer by service of the recoupment notice shall not be discharged by payment of the recoupable amount to the employee during the postponement period or thereafter if a recoupment notice is served on the employer during the said period.

(10) Payment by the employer to the Secretary of State under this Regulation shall be a complete discharge in favour of the employer as against the employee in respect of any sum so paid but without prejudice to any rights of the employee under Regulation 10 below.

(11) The recoupable amount shall be recoverable by the Secretary of State from the employer as a debt.