
STATUTORY INSTRUMENTS

2000 No. 2336

SOCIAL SECURITY

The Social Security (Payments on account, Overpayments and Recovery) Amendment Regulations 2000

<i>Made</i>	- - - -	<i>31st August 2000</i>
<i>Laid before Parliament</i>		<i>7th September 2000</i>
<i>Coming into force</i>	- -	<i>2nd October 2000</i>

The Secretary of State for Social Security, in exercise of the powers conferred on him by sections 71(8), 189(1), (3) and (4)(b) and 191 of the Social Security Administration Act 1992⁽¹⁾, and of all other powers enabling him in that behalf, and after agreement by the Social Security Advisory Committee that proposals to make the Regulations should not be referred to it⁽²⁾, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Social Security (Payments on account, Overpayments and Recovery) Amendment Regulations 2000 and shall come into force on 2nd October 2000.

Amendment of regulation 16 of the Social Security (Payments on account, Overpayments and Recovery) Regulations 1988

2.—(1) Regulation 16 of the Social Security (Payments on account, Overpayments and Recovery) Regulations 1988⁽³⁾ (limitations on deductions from prescribed benefits) shall be amended in accordance with the following provisions of this regulation.

(2) For paragraph (5) there shall be substituted the following paragraph—

“(5) Where a person responsible for the misrepresentation of or failure to disclose a material fact has, by reason thereof—

- (a) been found guilty of an offence whether under statute or otherwise; or
- (b) made an admission after caution of deception or fraud for the purpose of obtaining benefit; or

(1) 1992 c. 5. Section 189(1) was amended by paragraph 57(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2). Section 191 is cited because of the meaning ascribed to the word “prescribe”.
(2) See section 173(1)(b) of the Social Security Administration Act 1992.
(3) S.I.1988/664, to which there are amendments not relevant to these Regulations.

(c) agreed to pay a penalty under section 115A of the Social Security Administration Act 1992⁽⁴⁾ and the agreement has not been withdrawn,

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 10 pence or, if it is a multiple of 5 pence but not of 10 pence, the next higher multiple of 10 pence.”.

(3) In paragraph (8)—

(a) before the definition of “benefit week” there shall be inserted the following definition—

““admission after caution” means—

(i) in England and Wales, an admission after a caution has been administered in accordance with a Code issued under the Police and Criminal Evidence Act 1984⁽⁵⁾;

(ii) in Scotland, an admission after a caution has been administered, such admission being duly witnessed by two persons;”;

(b) the definition of “written statement after caution” shall be omitted.

Transitional provision

3. These Regulations shall not apply to a misrepresentation of or failure to disclose a material fact which occurred before the Regulations come into force.

31st August 2000

Alistair Darling
Secretary of State for Social Security

⁽⁴⁾ Section 115A was inserted by section 15 of the Social Security Administration (Fraud) Act 1997 (c. 47).

⁽⁵⁾ 1984 c. 60.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend regulation 16 of the Social Security (Payments on account, Overpayments and Recovery) Regulations 1988 by substituting a new paragraph (5) and making consequential amendments to paragraph (8).

Previously the higher rate of deduction to recover overpayments from income support or jobseeker's allowance could only be applied to a person who had been found guilty of an offence or had made a written statement after caution admitting deception or fraud.

These Regulations apply the higher rate of deduction also to a person who after caution makes an unwritten admission of deception or fraud or who agrees to pay a penalty as an alternative to prosecution.

By virtue of regulation 3, these Regulations do not impose the higher rate of deduction on the new classes of case where the misrepresentation of or failure to disclose a material fact occurred before these Regulations came into force.

These Regulations do not impose a cost on business.