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STATUTORY INSTRUMENTS

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**2013 No. 384**

**The Social Security (Overpayments  
and Recovery) Regulations 2013**

**PART 2**

Recoverability

**Recoverable amounts**

- 3.—(1) In these Regulations, “recoverable amount” means—
- (a) subject to regulations 7 to 9, the amount of any overpayment; and
  - (b) any other amount recoverable under any provision of the Act specified in paragraph (2).
- (2) Those provisions are <sup>M1</sup>—
- (a) section 71ZE(3) (costs of court action etc.);
  - (b) section 71ZG (recovery of payments on account);
  - (c) section 71ZH (recovery of hardship payments);
  - (d) section 115B(4)(recovery of penalties imposed as an alternative to prosecution);
  - (e) section 115C(4) (recovery of civil penalties for incorrect statements); and
  - (f) section 115D(4) (recovery of civil penalties for failure to disclose information).

**Marginal Citations**

**M1** Sections 71ZE, 71ZG and 71ZH are inserted by section 105 of the Welfare Reform Act 2012. Sections 115C and 115D are inserted by section 116 of that Act.

**Persons from whom an overpayment may be recovered**

4.—(1) The following paragraphs apply for determining the person from whom an overpayment is recoverable in the circumstances specified in those paragraphs.

(2) Where the payee is a person appointed under regulation 57 of the UC etc. Claims and Payments Regulations or a person to whom the Secretary of State has directed that payment be made in accordance with regulation 58 of those Regulations, then the overpayment is recoverable from the claimant in addition to the payee.

(3) Where the payee is a person to whom universal credit, jobseeker's allowance or employment and support allowance has been paid pursuant to Schedule 6 to the UC etc. Claims and Payments Regulations (payments to third parties), then, to the extent that the amount paid does not exceed the amount payable to the payee under that Schedule, the overpayment is recoverable from the claimant instead of the payee.

(4) Paragraphs (5) to (7) apply only in relation to overpayments of housing costs.

(5) Where the Secretary of State is satisfied that an overpayment occurred in consequence of any change of dwelling occupied by the claimant as their home, then if the claimant and the payee are not the same person, the overpayment is recoverable from the claimant in addition to the payee.

(6) Where the Secretary of State is satisfied that an overpayment occurred in consequence of a misrepresentation, or a failure to disclose a material fact (in either case, whether fraudulent or otherwise), by any person (“M”), then, if M and the payee are not the same person, the overpayment is recoverable from M instead of the payee.

(7) Where the Secretary of State is satisfied that an overpayment occurred for a reason other than that mentioned in paragraph (5) or (6), then, except where paragraph (2) or (8) applies in relation to the overpayment, if the claimant and the payee are not the same person, the overpayment is recoverable from the claimant instead of the payee.

(8) This paragraph applies where the overpayment occurred due to the amount of the payment exceeding the amount of housing costs for which the claimant is liable.

(9) In this regulation, “payee” means the person to whom the overpayment has been paid.

**Circumstances in which a determination need not be reversed, varied, revised or superseded prior to recovery**

5. Section 71ZB(3) of the Act (recoverability of an overpayment dependent on reversal, variation, revision or supersession) does not apply where the circumstances of the overpayment do not provide a basis for the decision pursuant to which the payment was made to be revised under section 9 of the Social Security Act 1998<sup>M2</sup> or superseded under section 10 of that Act.

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**Marginal Citations**

**M2** 1998 c.14.

**Changes to legislation:**

There are currently no known outstanding effects for the The Social Security (Overpayments and Recovery) Regulations 2013, PART 2.