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STATUTORY RULES OF NORTHERN IRELAND

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**2016 No. 224**

**The Social Security (Overpayments and Recovery) Regulations (Northern Ireland) 2016**

**PART 4**

**Calculation of recoverable amount of an overpayment**

**Diminution of capital**

7.—(1) Paragraph (2) applies where—

- (a) there is an overpayment of universal credit which occurred as a consequence of an error relating to the amount of a person's capital; and
- (b) the overpayment period is 3 months or more.

(2) Where this paragraph applies, the Department must, for the purpose only of calculating the recoverable amount of that overpayment—

- (a) at the end of the first 3 months of the overpayment period, treat the amount of that capital as having been reduced by the amount of universal credit overpaid during those 3 months;
- (b) at the end of each subsequent period of 3 months, if any, of the overpayment period, treat the amount of that capital as having been further reduced by the amount of universal credit overpaid during the immediately preceding 3 months.

(3) Capital is not to be treated as reduced over any period other than 3 months in any circumstances other than those for which paragraph (2) provides.

**Sums to be deducted**

8.—(1) In calculating the recoverable amount of an overpayment of jobseeker's allowance or employment and support allowance, the Department must deduct the amounts specified in paragraphs (2) and (3).

(2) Any amount which has been offset under regulation 16.

(3) Any additional amount of universal credit which is not payable to the claimant or the claimant's partner under the original or any other determination but which should have been determined to be payable in respect of all or part of the overpayment period to the claimant, or to the claimant and the claimant's partner jointly—

- (a) on the basis of the claim for universal credit as presented to the Department;
- (b) on the basis of that claim as it would have appeared if any change of circumstances, except a change of the dwelling which the claimant occupies as the claimant's home, had been notified at the time that change occurred;
- (c) where the overpayment arose by virtue of a misrepresentation or a failure to disclose a material fact, on the basis that that misrepresentation or failure had been remedied prior to the award being made; or

- (d) where the overpayment arose by virtue of an error made by, or on behalf of, the Department, on the basis that that error had not been made.

**Sums to be deducted: change of dwelling**

9.—(1) This regulation applies where an overpayment of housing costs has occurred in the following circumstances—

- (a) the claimant has moved from the dwelling previously occupied as the claimant’s home (“dwelling A”) to another dwelling which the claimant occupies as the claimant’s home (“dwelling B”);
- (b) the claimant has been awarded housing costs in respect of dwelling A to which the claimant is not entitled because of no longer occupying or being treated as occupying dwelling A as the claimant’s home; and
- (c) housing costs are payable to the same person in respect of the claimant’s occupation of dwelling B as it was paid to in respect of dwelling A.

(2) In calculating the recoverable amount of the overpayment, the Department may, at its discretion, deduct an amount equal to the claimant’s entitlement to housing costs for the assessment period in respect of dwelling B for the number of assessment periods equal to the number of assessment periods during which the claimant was overpaid housing costs in respect of dwelling A.

(3) Where a sum has been deducted under paragraph (2), an equivalent sum is to be treated as having been paid in respect of the claimant’s entitlement to housing costs in respect of dwelling B for the number of assessment periods equal to the number of assessment periods during which the claimant was overpaid housing costs in respect of dwelling A.