
STATUTORY INSTRUMENTS

2013 No. 384

The Social Security (Overpayments and Recovery) Regulations 2013

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 Secretary of State 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 Secretary of State 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 was not payable to the claimant or their 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 their partner jointly—

- (a) on the basis of the claim for universal credit as presented to the Secretary of State;
- (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 their 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 Secretary of State, 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 their home (“dwelling A”) to another dwelling which they occupy as their home (“dwelling B”);
- (b) they have been awarded housing costs in respect of dwelling A to which they are not entitled because they are no longer occupying or treated as occupying dwelling A as their 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 Secretary of State may, at his or her 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.

Changes to legislation:

There are currently no known outstanding effects for the The Social Security (Overpayments and Recovery) Regulations 2013, PART 4.