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STATUTORY INSTRUMENTS

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**2013 No. 384**

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

**PART 6**

Recovery by deduction from earnings

**Interpretation of Part 6**

17.—(1) In this Part—

“appropriate authority”, in relation to any recoverable amount, means—

- (a) the Secretary of State; or
- (b) an authority administering housing benefit if the recoverable amount is recoverable by that authority under section 115B(4)(a), 115C or 115D of the Act,

and where a notice has been issued, “the appropriate authority” means the appropriate authority which issued the notice;

“notice” means a notice issued by an appropriate authority requiring an employer to make deductions from earnings to be paid by the employer to a liable person employed by them and to pay corresponding amounts to that appropriate authority in respect of the recovery of a recoverable amount from the liable person;

“pay-day” in relation to a liable person means an occasion on which earnings are paid to them or the day on which such earnings would normally fall to be paid;

“protected earnings proportion”, in relation to a deduction by an employer from a liable person's net earnings, is 60 per cent. of the liable person's net earnings during the period to which the deduction relates, as calculated by the liable person's employer on the relevant pay-day.

(2) In this Part, subject to paragraph (3), “earnings” means any sums payable to a person—

- (a) by way of wages or salary (including any fees, bonus, commission, overtime pay or other emoluments payable in addition to wages or salary payable under a contract of service);
- (b) by way of pension which is paid with wages or salary (including an annuity in respect of past service, whether or not rendered to the person paying the annuity, and including periodical payments by way of compensation for the loss, abolition or relinquishment, or diminution in the emoluments, of any office or employment); or
- (c) by way of statutory sick pay.

(3) “Earnings” does not include—

- (a) sums payable by any public department of the Government of Northern Ireland or of a territory outside the United Kingdom;

- (b) pay or allowances payable to the liable person as a member of Her Majesty's forces other than pay or allowances payable by their employer to them as a special member of a reserve force (within the meaning of the Reserve Forces Act 1996 <sup>M1</sup>);
  - (c) other pensions, allowances or benefit payable under any enactment relating to social security;
  - (d) pension or allowances payable in respect of disablement or disability;
  - (e) guaranteed minimum pension within the meaning of the Pension Schemes Act 1993 <sup>M2</sup>;
  - (f) working tax credit payable under section 10 of the Tax Credits Act 2002 <sup>M3</sup>;
  - (g) sums paid to reimburse expenses wholly and necessarily incurred in the course of the employment.
- (4) "Net earnings" means the residue of earnings after deduction of—
- (a) income tax;
  - (b) primary Class I contributions under Part 1 of the Social Security Contributions and Benefits Act 1992 <sup>M4</sup>;
  - (c) amounts deductible by way of contributions to a superannuation scheme which provides for the payment of annuities or lump sums—
    - (i) to the employee on retirement at a specified age or on becoming incapacitated at some earlier age; or
    - (ii) on the employee's death or otherwise, to their personal representative, widow, surviving civil partner, relatives or dependants.
- (5) Where these Regulations refer to a notice or notification being given or sent, if sent by post to the last known address of the recipient, it is to be treated as having been given or sent on the day on which it is posted.

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**Marginal Citations**

- M1** 1996 c.14.
- M2** 1993 c.48.
- M3** 2002 c.21.
- M4** 1992 c.4.

**Changes to legislation:**

There are currently no known outstanding effects for the The Social Security (Overpayments and Recovery) Regulations 2013, Section 17.