
STATUTORY INSTRUMENTS

2013 No. 384

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

PART 7

Amendments to associated legislation

**Amendments to the Social Security (Payments on account, Overpayments and Recovery)
Regulations 1988**

31.—(1) The Social Security (Payments on account, Overpayments and Recovery) Regulations 1988 ^{M1} are amended as follows.

(2) In regulation 1(2) (interpretation)—

(a) before the definition of “the Act” insert—

““the 2012 Act” means the Welfare Reform Act 2012 ^{M2},”;

(b) before the definition of “the 2012 Act” insert—

““the 1995 Act” means the Jobseekers Act 1995 ^{M3};

“the 2007 Act” means the Welfare Reform Act 2007 ^{M4},”;

(c) in the definition of “benefit”^{M5}, after “state pension credit,” insert “personal independence payment,”;

(d) after the definition of “disabled person's tax credit”^{M6} insert—

““employment and support allowance” means, for the purposes of Parts 3 to 6, employment and support allowance under Part 1 of the 2007 Act as that Part has effect apart from the amendments made by Schedule 3, and Part 1 of Schedule 14, to the 2012 Act that remove references to an income-related allowance;”;

(e) after the definition of “Income Support Regulations” insert—

““jobseeker's allowance” means, for the purposes of Parts 3 to 6, jobseeker's allowance under the 1995 Act as that Act has effect apart from the amendments made by Part 1 of Schedule 14 to the 2012 Act that remove references to an income-based allowance;”;

(f) after the definition of “Jobseeker's Allowance Regulations”^{M7} insert—

““personal independence payment” means the allowance under Part 4 of the 2012 Act;”;

(g) after the definition of “tax credit”^{M8} insert—

““universal credit” means universal credit under Part 1 of the 2012 Act;”.

(3) In regulation 5(2) (offsetting prior payment against subsequent award), in Case 2, after “another benefit” insert “or, as the case may be, universal credit”.

(4) In regulation 8 (duplication and prescribed payments)—

(a) in paragraph (1) after sub-paragraph (a) insert—

- “(aa) any personal independence payment.”;
- (b) in paragraph (2), after “income support,” insert “ universal credit, ”.
- (5) At the beginning of regulation 11 (recovery of overpayments by automated or other direct credit transfer) insert—
- “(A1) This regulation applies only in respect of payments of benefit to which section 71 of the Administration Act applies.”.
- (6) For regulation 13(1) substitute—
- “(1) Subject to paragraphs (1C) and (2), in calculating an amount recoverable under section 71(1) of the Administration Act or under regulation 11 (“the overpayment”), the adjudicating authority must deduct—
- (a) any amount which has been offset under Part 3;
 - (b) any additional amount of a benefit specified in paragraph (1A) which was not payable 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 their partner—
 - (i) on the basis of the claim as presented to the adjudicating authority; or
 - (ii) on the basis that any misrepresentation or failure to disclose a material fact had been remedied prior to the award being made.
- (1A) The specified benefits are—
- (a) universal credit;
 - (b) income support;
 - (c) state pension credit;
 - (d) income-based jobseeker's allowance; and
 - (e) income-related employment and support allowance.
- (1B) In paragraph (1), “overpayment period” means the period over which the overpayment accrued.
- (1C) No other deduction is to be made in respect of any other entitlement to benefit which may be, or might have been, determined to exist.”.
- (7) In regulation 15 (recovery by deduction from benefits)—
- (a) after sub-paragraph (2)(f) add—
 - “(g) personal independence payment.”;
 - (b) after sub-paragraph (2)(g) add—
 - “(h) universal credit.”.
- (8) In regulation 16 (limitations on deductions from prescribed benefits)—
- (a) after paragraph (2) insert—
 - “(2A) Paragraphs (3) to (7) do not apply where paragraph (7A) applies.”;
 - (b) after paragraph (7) insert—
 - “(7A) This paragraph applies where the benefit from which the deduction is to be made under regulation 15 is universal credit.
 - (7B) Where paragraph (7A) applies, regulation 11 of the Social Security (Overpayments and Recovery) Regulations 2013 applies in relation to those deductions as it applies to deductions from universal credit for the recovery of recoverable amounts under those Regulations.”.

(9) After regulation 29 insert—

“PART 8A

Recovery by deduction from earnings: other cases

Recovery by deduction from earnings: other cases

29A.—(1) Any amount which is recoverable by virtue of section 71(1) or (4), 71ZA or 78(1) of the Administration Act may be recovered by the Secretary of State by deduction from the earnings of the person from whom it is recoverable.

(2) Part 6 of the Social Security (Overpayments and Recovery) Regulations 2013 applies in relation to recovery by deduction from the earnings of a person specified in paragraph (1) by the Secretary of State as it applies to recovery by deduction from the earnings of persons of recoverable amounts under that Part of those Regulations by an appropriate authority.”.

Marginal Citations

M1 [S.I.1988/664](#).

M2 [2012 c.5](#).

M3 [1995 c.18](#).

M4 [2007 c.5](#).

M5 That definition is amended by [S.I.1988/1725](#), 1996/1345, 1999/2571, 2000/1483, 2002/3019 and 2008/1554.

M6 That definition is inserted by [S.I.1991/2742](#).

M7 That definition is inserted by [S.I.1996/1345](#).

M8 That definition is inserted by [S.I.1999/2571](#).

Changes to legislation:

There are currently no known outstanding effects for the The Social Security (Overpayments and Recovery) Regulations 2013, Section 31.