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STATUTORY INSTRUMENTS

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**2015 No. 2006**

**The Welfare Reform (Northern Ireland) Order 2015**

**PART 6**

Social security: general

*Recovery of benefits*

**Recovery of benefit payments**

**109.**—(1) In the Administration Act, after section 69ZA insert—

*“Recovery of benefit payments*

**69ZB Recovery of overpayments of certain benefits**

(1) The Department may recover any amount of the following paid in excess of entitlement—

- (a) universal credit,
- (b) jobseeker's allowance,
- (c) employment and support allowance, and
- (d) except in prescribed circumstances, housing credit (within the meaning of the State Pension Credit Act (Northern Ireland) 2002).

(2) An amount recoverable under this section is recoverable from—

- (a) the person to whom it was paid, or
- (b) such other person (in addition to or instead of the person to whom it was paid) as may be prescribed.

(3) An amount paid in pursuance of a determination is not recoverable under this section unless the determination has been—

- (a) reversed or varied on an appeal, or
- (b) revised or superseded under Article 10 or Article 11 of the Social Security (Northern Ireland) Order 1998,

except where regulations otherwise provide.

(4) Regulations may provide that amounts recoverable under this section are to be calculated or estimated in a prescribed manner.

(5) Where an amount of universal credit is paid for the sole reason that a payment by way of prescribed income is made after the date which is the prescribed date for payment of that income, that amount is for the purposes of this section paid in excess of entitlement.

*Status: Point in time view as at 30/03/2022.*

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(6) In the case of a benefit referred to in subsection (1) which is awarded to persons jointly, an amount paid to one of those persons may for the purposes of this section be regarded as paid to the other.

(7) An amount recoverable under this section may (without prejudice to any other means of recovery) be recovered—

- (a) by deduction from benefit (section 69ZC);
- (b) by deduction from earnings (section 69ZD);
- (c) through the courts etc (section 69ZE);
- (d) by adjustment of benefit (section 69ZF).

### **69ZC Deduction from benefit**

(1) An amount recoverable from a person under section 69ZB may be recovered by deducting the amount from payments of prescribed benefit.

(2) Where an amount recoverable from a person under section 69ZB was paid to the person on behalf of another, subsection (1) authorises its recovery from the person by deduction—

- (a) from prescribed benefits to which the person is entitled,
- (b) from prescribed benefits paid to the person to discharge (in whole or in part) an obligation owed to that person by the person on whose behalf the recoverable amount was paid, or
- (c) from prescribed benefits paid to the person to discharge (in whole or in part) an obligation owed to that person by any other person.

(3) Where an amount is recovered as mentioned in paragraph (b) of subsection (2), the obligation specified in that paragraph shall in prescribed circumstances be taken to be discharged by the amount of the deduction.

(4) Where an amount is recovered as mentioned in paragraph (c) of subsection (2), the obligation specified in that paragraph shall in all cases be taken to be so discharged.

### **69ZD Deduction from earnings**

(1) Regulations may provide for amounts recoverable under section 69ZB to be recovered by deductions from earnings.

(2) In this section “earnings” has such meaning as may be prescribed.

(3) Regulations under subsection (1) may include provision—

- (a) requiring the person from whom an amount is recoverable (“the beneficiary”) to disclose details of their employer, and any change of employer, to the Department;
- (b) requiring the employer, on being served with a notice by the Department, to make deductions from the earnings of the beneficiary and to pay corresponding amounts to the Department;
- (c) as to the matters to be contained in such a notice and the period for which a notice is to have effect;
- (d) as to how payment is to be made to the Department;
- (e) as to a level of earnings below which earnings must not be reduced;
- (f) allowing the employer, where the employer makes deductions, to deduct a prescribed sum from the beneficiary's earnings in respect of the employer's administrative costs;
- (g) requiring the employer to keep records of deductions;

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- (h) requiring the employer to notify the Department if the beneficiary is not, or ceases to be, employed by the employer;
- (i) creating a criminal offence for non-compliance with the regulations, punishable on summary conviction by a fine not exceeding level 3 on the standard scale;
- (j) with respect to the priority as between a requirement to deduct from earnings under this section and—
  - (i) any other such requirement;
  - (ii) an order under any other statutory provision which requires deduction from the beneficiary's earnings.

#### **69ZE Court action etc.**

(1) An amount recoverable under section 69ZB is, if the county court so orders, recoverable as if it were payable under an order of that court.

(2) Any costs of the Department in recovering an amount of benefit under this section may be recovered by it as if they were amounts recoverable under section 69ZB.

#### **69ZF Adjustment of benefit**

**69ZF.** Regulations may for the purpose of the recovery of amounts recoverable under section 69ZB make provision—

- (a) for treating any amount paid to a person under an award which it is subsequently determined was not payable—
  - (i) as properly paid, or
  - (ii) as paid on account of a payment which it is determined should be or should have been made,and for reducing or withholding arrears payable by virtue of the subsequent determination;
- (b) for treating any amount paid to one person in respect of another as properly paid for any period for which it is not payable in cases where in consequence of a subsequent determination—
  - (i) the other person is entitled to a payment for that period, or
  - (ii) a third person is entitled in priority to the payee to a payment for that period in respect of the other person,and by reducing or withholding any arrears payable for that period by virtue of the subsequent determination.

#### **69ZG Recovery of payments on account**

(1) The Department may recover any amount paid under section 5(1)(s) (payments on account).

(2) An amount recoverable under this section is recoverable from—

- (a) the person to whom it was paid, or
- (b) such other person (in addition to or instead of the person to whom it was paid) as may be prescribed.

(3) Regulations may provide that amounts recoverable under this section are to be calculated or estimated in a prescribed manner.

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(4) In the case of a payment on account of a benefit which is awarded to persons jointly, an amount paid to one of those persons may for the purposes of this section be regarded as paid to the other.

(5) Sections 69ZC, 69ZD and 69ZE apply in relation to amounts recoverable under this section as to amounts recoverable under section 69ZB.

#### **69ZH Recovery of hardship payments etc.**

(1) The Department may recover any amount paid by way of—

- (a) payment under Article 33 of the Welfare Reform (Northern Ireland) Order 2015 (universal credit hardship payments) which is recoverable under that Article,
- (b) a payment under Article 21C of the Jobseekers Order (jobseeker's allowance hardship payments) which is recoverable under that Article,
- (c) a payment of a jobseeker's allowance under paragraph 8 or 8A of Schedule 1 to that Order (exemptions), where the allowance is payable at a prescribed rate under paragraph 9 of that Schedule and is recoverable under that paragraph,
- (d) a payment of a jobseeker's allowance under paragraph 10 of that Schedule (claims yet to be determined etc.) which is recoverable under that paragraph, or
- (e) a payment which is recoverable under section 5B(5A)(d) or (7)(d), 6(2A)(d) or (4)(d), 7(3)(aa) or (4)(d) or 8(2A)(d) or (4)(d) of the Social Security Fraud Act (Northern Ireland) 2001.

(2) An amount recoverable under this section is recoverable from—

- (a) the person to whom it was paid, or
- (b) such other person (in addition to or instead of the person to whom it was paid) as may be prescribed.

(3) Regulations may provide that amounts recoverable under this section are to be calculated or estimated in a prescribed manner.

(4) Where universal credit or a jobseeker's allowance is claimed by persons jointly, an amount paid to one claimant may for the purposes of this section be regarded as paid to the other.

(5) Sections 69ZC to 69ZF apply in relation to amounts recoverable under this section as to amounts recoverable under section 69ZB.”

(2) In section 69 of that Act (overpayments - general), in subsection (11)(ab), at the end insert “excluding housing credit (see section 69ZB) ”.

(3) In section 109A of that Act (penalty as alternative to prosecution), in subsection (1), after “69” insert “, 69ZB ”.

(4) In section 109B of that Act (penalty as alternative to prosecution: colluding employers, etc)—

(a) for subsection (4) substitute—

“(4) If the recipient of a notice under subsection (3) agrees, in the specified manner, to pay the penalty—

- (a) the amount of the penalty shall be recoverable from the recipient by the Department or the Housing Executive; and
- (b) no criminal proceedings shall be instituted against the recipient in respect of the conduct to which the notice relates.

(4A) Sections 69ZC, 69ZD and 69ZE apply in relation to amounts recoverable under subsection (4)(a) as to amounts recoverable by the Department under section 69ZB (and,

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where the notice is given by the Housing Executive, those sections so apply as if references to the Department were to the Housing Executive).”;

(b) in subsection (9), the definition of “relevant benefit” is repealed.

(5) In Schedule 1 to the Jobseekers Order (supplementary provision)—

(a) in paragraph 9, at the end insert—

“(c) as to whether the whole or part of any amount of a jobseeker's allowance which is payable as specified in paragraph (a) is recoverable.”;

(b) in paragraph 10, for sub-paragraph (5)(a) substitute—

“(a) as to whether the whole or part of any amount paid by virtue of sub-paragraph (1) or (2) is recoverable.”.

(6) In Article 13 of the Social Security (Northern Ireland) Order 1998 (appeal to appeal tribunal), in paragraph (4), after “69” insert “ , 69ZB, 69ZG, 69ZH ”.

(7) In Schedule 3 to that Order (decisions against which an appeal lies), after paragraph 6 insert—

“**6A.** A decision as to whether payment of housing credit (within the meaning of the State Pension Credit Act (Northern Ireland) 2002) is recoverable under section 69ZB of the Administration Act.

**6B.** A decision as to the amount of payment recoverable under section 69ZB, 69ZG or 69ZH of the Administration Act.”

#### Commencement Information

- I1** [Art. 109](#) in operation at 4.4.2016 for specified purposes by [S.R. 2016/46](#), [art. 4\(a\)](#)
- I2** [Art. 109](#) in operation at 2.5.2016 for specified purposes by [S.R. 2016/215](#), [art. 2\(6\)\(b\)](#)
- I3** [Art. 109](#) in operation at 20.6.2016 otherwise except in relation to universal credit by [S.R. 2016/215](#), [art. 3\(3\)](#)
- I4** [Art. 109](#) in operation at 27.9.2017 in so far as not already in operation by [S.R. 2017/190](#), [art. 3\(1\)\(2\)](#)  
(e)

#### Deduction from earnings: other cases

**110.**—(1) In section 69 of the Administration Act (overpayments - general), after subsection (9) insert—

“(9A) Regulations may provide for amounts recoverable under the provisions mentioned in subsection (8) to be recovered by deductions from earnings.

(9B) In subsection (9A) “earnings” has such meaning as may be prescribed.

(9C) Regulations under subsection (9A) may include provision—

- (a) requiring the person from whom an amount is recoverable (“the beneficiary”) to disclose details of their employer, and any change of employer, to the Department;
- (b) requiring the employer, on being served with a notice by the Department, to make deductions from the earnings of the beneficiary and to pay corresponding amounts to the Department;
- (c) as to the matters to be contained in such a notice and the period for which a notice is to have effect;
- (d) as to how payment is to be made to the Department;

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- (e) as to a level of earnings below which earnings must not be reduced;
- (f) allowing the employer, where the employer makes deductions, to deduct a prescribed sum from the beneficiary's earnings in respect of the employer's administrative costs;
- (g) requiring the employer to keep records of deductions;
- (h) requiring the employer to notify the Department if the beneficiary is not, or ceases to be, employed by the employer;
- (i) creating a criminal offence for non-compliance with the regulations, punishable on summary conviction by a fine not exceeding level 3 on the standard scale;
- (j) with respect to the priority as between a requirement to deduct from earnings under this section and—
  - (i) any other such requirement;
  - (ii) an order under any other statutory provision which requires deduction from the beneficiary's earnings.”

(2) In section 69ZA of that Act (overpayments out of the social fund), before subsection (3) insert—

“(2A) Subsection (9A) of section 69 as it so applies shall have effect as if the reference to amounts recoverable under the provisions mentioned in subsection (8) of that section were to amounts recoverable under subsections (1) and (4) of that section by virtue of subsection (1) above.”

(3) In section 73 of that Act (overpayments of housing benefit), at the end insert—

“(8) Regulations may provide for amounts recoverable under this section to be recovered by deductions from earnings.

(9) In subsection (8) “earnings” has such meaning as may be prescribed.

(10) Regulations under subsection (8) may include provision—

- (a) requiring the person from whom an amount is recoverable (“the beneficiary”) to disclose details of their employer, and any change of employer, to the Department, the Department of Finance and Personnel or the Housing Executive;
- (b) requiring the employer, on being served with a notice by the Department, the Department of Finance and Personnel or the Housing Executive, to make deductions from the earnings of the beneficiary and to pay corresponding amounts to the Department, the Department of Finance and Personnel or the Housing Executive;
- (c) as to the matters to be contained in such a notice and the period for which a notice is to have effect;
- (d) as to how payment is to be made to the Department, the Department of Finance and Personnel or the Housing Executive;
- (e) as to a level of earnings below which earnings must not be reduced;
- (f) allowing the employer, where the employer makes deductions, to deduct a prescribed sum from the beneficiary's earnings in respect of the employer's administrative costs;
- (g) requiring the employer to keep records of deductions;
- (h) requiring the employer to notify the Department, the Department of Finance and Personnel or the Housing Executive if the beneficiary is not, or ceases to be, employed by the employer;

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- (i) creating a criminal offence for non-compliance with the regulations, punishable on summary conviction by a fine not exceeding level 3 on the standard scale;
  - (j) with respect to the priority as between a requirement to deduct from earnings under this section and—
    - (i) any other such requirement;
    - (ii) an order under any other statutory provision which requires deduction from the beneficiary's earnings.”
- (4) In section 74 of that Act (recovery of social fund awards), after subsection (3A) insert—
- “(3B) Regulations may provide for amounts recoverable under subsection (1) from a person specified in subsection (3) to be recovered by deductions from earnings.
  - (3C) In subsection (3B) “earnings” has such meaning as may be prescribed.
  - (3D) Regulations under subsection (3B) may include provision referred to in section 69(9C).”

#### Commencement Information

- I5** [Art. 110](#) in operation at 2.5.2016 for specified purposes by [S.R. 2016/215](#), [art. 2\(6\)\(c\)](#)
- I6** [Art. 110](#) in operation at 20.6.2016 otherwise except in relation to universal credit by [S.R. 2016/215](#), [art. 3\(3\)](#)

#### Application of the Limitation (Northern Ireland) Order 1989

**111.**—(1) Article 2 of the Limitation (Northern Ireland) Order 1989 (interpretation) is amended as follows.

- (2) In paragraph (2), in the definition of “action”, at the end insert “ (and see paragraph (11)) ”.
- (3) At the end insert—
  - “(11) References in this Order to an action do not include any method of recovery of a sum recoverable under—
    - (a) Part 3 of the Social Security Administration (Northern Ireland) Act 1992,
    - (b) section 126(c) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992, or
    - (c) Part 1 of the Tax Credits Act 2002, other than a proceeding in a court of law.”

(4) The amendments made by this Article have effect as if they had come into operation at the same time as Article 2 of the Limitation (Northern Ireland) Order 1989, except for the purposes of proceedings brought before the coming into operation of this Article.

#### Commencement Information

- I7** [Art. 111](#) in operation at 17.2.2016 by [S.R. 2016/46](#), [art. 3\(4\)\(b\)](#)

**Status:**

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**Changes to legislation:**

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