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STATUTORY RULES OF NORTHERN IRELAND

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2000 No. 266

**SOCIAL SECURITY**

**The Social Security (Payments on account, Overpayments and Recovery) (Amendment) Regulations (Northern Ireland) 2000**

*Made* . . . . . 4th September 2000

*Coming into operation* . . . . . 2nd October 2000

The Department for Social Development, in exercise of the powers conferred by sections 69(8) and 165(1), (3) and (4)(b) of the Social Security Administration (Northern Ireland) Act 1992(a), and now vested in it(b), and of all other powers enabling it in that behalf, hereby makes the following Regulations:

*Citation, commencement and interpretation*

1.—(1) These Regulations may be cited as the Social Security (Payments on account, Overpayments and Recovery) (Amendment) Regulations (Northern Ireland) 2000 and shall come into operation on 2nd October 2000.

(2) The Interpretation Act (Northern Ireland) 1954(c) shall apply to these Regulations as it applies to an Act of the Assembly.

*Amendment of the Social Security (Payments on account, Overpayments and Recovery) Regulations*

2. In regulation 16 of the Social Security (Payments on account, Overpayments and Recovery) Regulations (Northern Ireland) 1988(d) (limitations on deductions from prescribed benefits)—

(a) for paragraph (5) there shall be substituted the following paragraph—

“(5) Where a person responsible for the misrepresentation of or failure to disclose a material fact has, by reason thereof—

- (a) been found guilty of an offence under any statutory provision;
- (b) made an admission after caution of deception or fraud for the purpose of obtaining benefit; or
- (c) agreed to pay a penalty under section 109A of the Administration Act(e) and the agreement has not been withdrawn,

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(a) 1992 c. 8; section 165(1) was amended by paragraph 49(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671)

(b) See Article 8(b) of S.R. 1999 No. 481

(c) 1954 c. 33 (N.I.)

(d) S.R. 1988 No. 142; relevant amending regulations are S.R. 1989 No. 495

(e) Section 109A was inserted by Article 14 of the Social Security Administration (Fraud) (Northern Ireland) Order 1997 (S.I. 1997/1182 (N.I. 11))

the amount mentioned in paragraph (4)(a) shall be 4 times 5 per cent. of the personal allowance for a single claimant aged not less than 25, that 5 per cent. being, where it is not a multiple of 10 pence, rounded to the nearest 10 pence or, if it is a multiple of 5 pence but not of 10 pence, the next higher multiple of 10 pence.”; and

(b) in paragraph (8)—

(i) before the definition of “benefit week” there shall be inserted the following definition—

““admission after caution” means an admission after a caution has been administered in accordance with a Code issued under the Police and Criminal Evidence (Northern Ireland) Order 1989(a);”, and

(ii) the definition of “written statement after caution”(b) shall be omitted.

*Transitional provision*

**3.** These Regulations shall not apply to a misrepresentation of or failure to disclose a material fact which occurred before 2nd October 2000.

*Revocation*

**4.** The Social Security (Payments on account, Overpayments and Recovery) (Amendment) Regulations (Northern Ireland) 1989(c) are hereby revoked.

Sealed with the Official Seal of the Department for Social Development on 4th September 2000.

(L.S.)

*John O'Neill*

Senior Officer of the Department for Social Development

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(a) S.I. 1989/1341 (N.I. 12)

(b) The definition of “written statement after caution” was substituted by regulation 2 of S.R. 1989 No. 495

(c) S.R. 1989 No. 495

## EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

These Regulations amend regulation 16 of the Social Security (Payments on account, Overpayments and Recovery) Regulations (Northern Ireland) 1988 to provide for the higher rate of deduction to recover overpayments from income support or jobseeker's allowance to be applied to a person who, after caution, makes an admission of deception or fraud or agrees to pay a penalty as an alternative to prosecution.

Regulation 3 contains a transitional provision.

Regulation 4 makes a consequential revocation.

These Regulations correspond to provision contained in Regulations made by the Secretary of State for Social Security in relation to Great Britain and accordingly, by virtue of section 149(3) of, and paragraph 10 of Schedule 5 to, the Social Security Administration (Northern Ireland) Act 1992, are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.

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