
STATUTORY RULES OF NORTHERN IRELAND

2016 No. 224

The Social Security (Overpayments and Recovery) Regulations (Northern Ireland) 2016

PART 2

Recoverability

Recoverable amounts

- 3.—**(1) In these Regulations “recoverable amount” means—
- (a) subject to regulations 7 to 9, the amount of any overpayment; and
 - (b) any other amount recoverable under any provision of the Administration Act specified in paragraph (2).
- (2) Those provisions are—
- (a) section 69ZE(1) (court action etc.);
 - (b) section 69ZG (recovery of payments on account);
 - (c) section 69ZH (recovery of hardship payments etc.); and
 - (d) section 109B(4)(2) (penalty as alternative to prosecution: colluding employers, etc.).

Persons from whom an overpayment may be recovered

4.—(1) The following paragraphs apply for determining the person from whom an overpayment is recoverable in the circumstances specified in those paragraphs.

(2) Where the payee is a person appointed under regulation 52 of the Claims and Payments Regulations (persons unable to act) or a person to whom the Department has directed that payment be made in accordance with regulation 53 of those Regulations (payment to another person on the claimant’s behalf), then the overpayment is recoverable from the claimant in addition to the payee.

(3) Where the payee is a person to whom universal credit, jobseeker’s allowance or employment and support allowance has been paid pursuant to Schedule 5 to the Claims and Payments Regulations (deductions from benefit and direct payment to third parties), then, to the extent that the amount paid does not exceed the amount payable to the payee under that Schedule, the overpayment is recoverable from the claimant instead of the payee.

(4) Paragraphs (5) to (7) apply only in relation to overpayments of housing costs.

(5) Where the Department is satisfied that an overpayment occurred in consequence of any change of dwelling occupied by the claimant as the claimant’s home, then if the claimant and the payee are not the same person, the overpayment is recoverable from the claimant in addition to the payee.

(1) Section 69ZE is inserted by Article 109(1) of the Welfare Reform (Northern Ireland) Order 2015.

(2) Subsection (4) is substituted by Article 109(4)(a) of the Welfare Reform (Northern Ireland) Order 2015.

(6) Where the Department is satisfied that an overpayment occurred in consequence of a misrepresentation, or a failure to disclose a material fact (in either case, whether fraudulent or otherwise), by any person (“M”), then, if M and the payee are not the same person, the overpayment is recoverable from M instead of the payee.

(7) Where the Department is satisfied that an overpayment occurred for a reason other than that mentioned in paragraph (5) or (6), then, except where paragraph (2) or (8) applies in relation to the overpayment, if the claimant and the payee are not the same person, the overpayment is recoverable from the claimant instead of the payee.

(8) This paragraph applies where an overpayment occurred due to the amount of the payment exceeding the amount of housing costs for which the claimant is liable.

(9) In this regulation “payee” means the person to whom the overpayment has been paid.

Circumstances in which a determination need not be reversed, varied, revised or superseded prior to recovery

5. Section 69ZB(3) of the Administration Act (recovery of overpayments of certain benefits) does not apply where the circumstances of the overpayment do not provide a basis for the decision pursuant to which the payment was made to be revised under Article 10 of the Social Security (Northern Ireland) Order 1998⁽³⁾ (revision of decisions) or superseded under Article 11 of that Order (decisions superseding earlier decisions).

(3) [S.I. 1998 No. 1506 \(N.I. 10\)](#); Article 11 was amended by paragraph 17 of Schedule 6 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999.