
STATUTORY RULES OF NORTHERN IRELAND

2016 No. 224

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

PART 7

Consequential amendments and revocations

Amendment of the Social Fund (Recovery by Deductions from Benefits) Regulations

30. In regulation 2 of the Social Fund (Recovery by Deductions from Benefits) Regulations (Northern Ireland) 1988(1) (benefits from which an award may be recovered) before paragraph (a) insert—

“(za) universal credit under Part 2 of the Welfare Reform (Northern Ireland) Order 2015;”.

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

31.—(1) The Social Security (Payments on account, Overpayments and Recovery) Regulations (Northern Ireland) 1988(2), as they have effect otherwise than for the purposes of tax credits, are amended in accordance with paragraphs (2) to (9).

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

(a) after the definition of “the 1998 Order” insert—

““the 2015 Order” means the Welfare Reform (Northern Ireland) Order 2015;”;

(b) in the definition of “benefit”(3) after “state pension credit” insert “, personal independence payment”;

(c) after the definition of “disability working allowance”(4) insert—

““employment and support allowance” means, for the purposes of Parts III to VI, employment and support allowance under Part 1 of the Welfare Reform Act as that Part has effect apart from the amendments made by Schedule 3 and Part 1 of Schedule 12 to the 2015 Order that remove references to the an income-related allowance;”;

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

““the Jobseekers Order” means the Jobseekers (Northern Ireland) Order 1995;

(1) S.R. 1988 No. 21; to which there are amendments not relevant to these Regulations.

(2) S.R. 1988 No. 142; relevant amending Regulations are S.R. 1988 No. 369, S.R. 1992 No. 6, S.R. 1995 No. 150, S.R. 1996 No. 289, S.R. 2003 No. 191, S.R. 2008 No. 286 and S.R. 2012 No. 108.

(3) The definition of “benefit” was amended by regulation 4(2) of S.R. 1988 No. 369, regulation 21(2)(b) of S.R. 1995 No. 150, regulation 15(2)(a) of S.R. 1996 No. 289, regulation 26(2)(a) of S.R. 2003 No. 191 and regulation 15(2)(a) of S.R. 2008 No. 286.

(4) The definition of “disability working allowance” was inserted by regulation 14(2)(b) of S.R. 1992 No. 6.

“jobseeker’s allowance” means, for the purposes of Parts III to VI, jobseeker’s allowance under the Jobseekers Order as that Order has effect apart from the amendments made by Part 1 of Schedule 12 to the 2015 Order that remove references to an income-based allowance;”;

(e) after the definition of “the Jobseeker’s Allowance Regulations”(5) insert—

““personal independence payment” means the allowance under Part 5 of the 2015 Order;” and

(f) after the definition of “the State Pension Credit Regulations”(6) insert—

““universal credit” means the benefit under Part 2 of the 2015 Order;”.

(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) In regulation 11 (recovery of overpayments by automated or other direct credit transfer) before paragraph (1) insert—

“(A1) This regulation applies only in respect of payments of benefit to which section 69 of the Administration Act applies.”.

(6) For regulation 13(7) (sums to be deducted in calculating recoverable amounts) substitute—

“Sums to be deducted in calculating recoverable amounts

13.—(1) Subject to paragraph (1C), in calculating an amount recoverable under section 69(1) of the Administration Act or under regulation 11, the adjudicating authority must deduct—

(a) any amount which has been offset under Part III;

(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 his 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 has 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;

(e) income-related employment and support allowance.

(5) The definition of “the Jobseeker’s Allowance Regulations” was inserted by regulation 15(2)(b) of S.R. 1996 No. 289.

(6) The definition of “the State Pension Credit Regulations” was added by regulation 26(2)(b) of S.R. 2003 No. 191.

(7) Regulation 13 was amended by regulation 26(5) of S.R. 2003 No. 191, regulation 15(8) of S.R. 2008 No. 286 and regulation 2(2) of S.R. 2012 No. 108.

(1B) In paragraph (1) “the 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(2)(8) (recovery by deduction from prescribed benefits) after sub-paragraph (f) add—

“(g) any personal independence payment;

(h) any 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) in paragraph (4)(9)—

(i) omit “, subject to paragraphs 8 and 9 of Schedule 8A to the Claims and Payments Regulations,”; and

(ii) in sub-paragraph (b) after “in any other case,” insert “subject to paragraphs 8 and 9 of Schedule 8A to the Claims and Payments Regulations,”;

(c) in paragraph (5)(10) for “shall be 5 times” substitute “shall, subject to paragraph (5ZA), be 8 times”;

(d) after paragraph (5) insert—

“(5ZA) In a case to which paragraph (5) applies, where deductions fall to be made under Schedule 8A to the Claims and Payments Regulations (deductions from benefits and direct payment to third parties), the total of the amount deductible under paragraph (5) and the amount deductible under that Schedule shall not exceed 8 times 5 per cent. of the personal allowance mentioned in paragraph (5).”; and

(e) 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 (Northern Ireland) 2016 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 Part VIII (recovery by deductions from earnings following trade dispute) insert—

“PART VIIIA

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 69(1) or (4), 69ZA or 74(1) of the Administration Act may be recovered by the Department by deduction from the earnings of the person from whom it is recoverable.

(8) Paragraph 2 was amended by regulation 14(6) of S.R. 1992 No. 6, regulation 21(3) of S.R. 1995 No. 150, regulation 26(5) of S.R. 2003 No. 191 and regulation 15(10) of S.R. 2008 No. 286.

(9) Paragraph (4) was amended by regulation 3(4)(a) of S.R. 1996 No. 464.

(10) Paragraph (5) was substituted by regulation 2(a) of S.R. 2000 No. 266 and amended by regulation 2(3) of S.R. 2012 No. 108.

(2) Part 6 of the Social Security (Overpayments and Recovery) Regulations (Northern Ireland) 2016 applies in relation to recovery by deduction from the earnings of a person specified in paragraph (1) by the Department as it applies to recovery by deduction from the earnings of persons of recoverable amounts under that Part by an appropriate authority.”

Amendment of the Housing Benefit Regulations

32.—(1) The Housing Benefit Regulations (Northern Ireland) 2006(**11**) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 102(**12**) (recovery of overpayments from prescribed benefits)—

(a) in paragraph (1) after sub-paragraph (f) add—

“(g) personal independence payment;
(h) universal credit.”; and

(b) in paragraph (2A)—

(i) omit “and” after sub-paragraph (c), and
(ii) after sub-paragraph (d) add—

“(e) personal independence payment;
(f) universal credit.”.

(3) After regulation 103 (prescribed benefits) insert—

“Recovery by deduction from earnings

103A.—(1) Any overpayment which is recoverable by virtue of regulation 97 may be recovered by a relevant authority by deduction from the earnings of the person from whom it is recoverable.

(2) Part 6 of the Social Security (Overpayments and Recovery) Regulations (Northern Ireland) 2016 applies in relation to the recovery of overpayments by deduction from the earnings of a person specified in paragraph (1) by a relevant authority as it applies to the recovery of recoverable amounts by deduction from the earnings of persons under that Part by an appropriate authority.”.

Amendment of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations

33.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006(**13**) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 83(**14**) (recovery of overpayments from prescribed benefits)—

(a) in paragraph (1) after sub-paragraph (f) add—

“(g) personal independence payment;
(h) universal credit.”; and

(b) in paragraph (2A)—

(i) omit “and” after sub-paragraph (c), and

(11) S.R. 2006 No. 405; relevant amending Regulations are S.R. 2008 Nos. 378 and 504.

(12) Regulation 102 was amended by regulation 3(16) of S.R. 2008 No. 378 and regulation 2(4) of S.R. 2008 No. 504.

(13) S.R. 2006 No. 406; relevant amending Regulations are S.R. 2008 Nos. 378 and 504.

(14) Regulation 83 was amended by regulation 4(11) of S.R. 2008 No. 378 and regulation 3(5) of S.R. 2008 No. 504.

(ii) after sub-paragraph (d) add—

“(e) personal independence payment;

(f) universal credit.”.

(3) After regulation 83 insert—

“Recovery by deduction from earnings

83A.—(1) Any overpayment which is recoverable by virtue of regulation 78 may be recovered by a relevant authority by deduction from the earnings of the person from whom it is recoverable.

(2) Part 6 of the Social Security (Overpayments and Recovery) Regulations (Northern Ireland) 2016 applies in relation to the recovery of overpayments by deduction from the earnings of a person specified in paragraph (1) by a relevant authority as it applies to the recovery of recoverable amounts by deduction from the earnings of persons under that Part by an appropriate authority.”.

Revocations

34. Regulation 26(6)(c) of the State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) Regulations (Northern Ireland) 2003⁽¹⁵⁾, regulation 15(8) of the Employment and Support Allowance (Consequential Provisions) Regulations (Northern Ireland) 2008⁽¹⁶⁾ and regulation 2(2) and (3)(a) of the Social Security (Recovery) (Amendment) Regulations (Northern Ireland) 2012⁽¹⁷⁾ are revoked.

⁽¹⁵⁾ S.R. 2003 No. 191.

⁽¹⁶⁾ S.R. 2008 No. 286.

⁽¹⁷⁾ S.R. 2012 No. 108.