



Social Security Administration (Northern Ireland) Act 1992

1992 CHAPTER 8

PART III

OVERPAYMENTS AND ADJUSTMENTS OF BENEFIT

Modifications etc. (not altering text)

C1 Pt. III (ss. 69-76) restricted (1.12.1999) by S.I. 1999/3147 (N.I. 11), arts. 1(4), 65

Misrepresentation etc.

69 Overpayments - general.

(1) Where it is determined that, whether fraudulently or otherwise, any person has misrepresented, or failed to disclose, any material fact and in consequence of the misrepresentation or failure—

- (a) a payment has been made in respect of a benefit to which this section applies;
or
- (b) any sum recoverable by or on behalf of the Department in connection with any such payment has not been recovered,

the Department shall be entitled to recover the amount of any payment which the Department would not have made or any sum which the Department would have received but for the misrepresentation or failure to disclose.

[^{F1}(2) Where any such determination as is referred to in subsection (1) above is made, the person making the determination shall [^{F2}in the case of the Department or a tribunal, and may in the case of a Commissioner or a court]—

- (a) determine whether any, and if so what, amount is recoverable under that subsection by the Department, and

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- (b) specify the period during which that amount was paid to the person concerned.]
- (3) An amount recoverable under subsection (1) above is in all cases recoverable from the person who misrepresented the fact or failed to disclose it.
- (4) In relation to cases where payments of a benefit to which this section applies have been credited to a bank account or other account under arrangements made with the agreement of the beneficiary or a person acting for him, circumstances may be prescribed in which the Department is to be entitled to recover any amount paid in excess of entitlement; but any such regulations shall not apply in relation to any payment unless before he agreed to the arrangements such notice of the effect of the regulations as may be prescribed was given in such manner as may be prescribed to the beneficiary or to a person acting for him.
- ^{F3}(5)
- [^{F4}(5A) Except where regulations otherwise provide, an amount shall not be recoverable [^{F5}[^{F6}under subsection (1) or under regulations under subsection (4)] or under regulations under subsection (4) above] unless the determination in pursuance of which it was paid has been reversed or varied on an appeal or [^{F7}has been revised under Article 10 or superseded under Article 11 of the Social Security (Northern Ireland) Order 1998].]
- (6) Regulations may provide—
- (a) that amounts recoverable under subsection (1) above or regulations under subsection (4) above shall be calculated or estimated in such manner and on such basis as may be prescribed;
 - (b) for treating any amount paid to any 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 any arrears payable by virtue of the subsequent determination;
 - (c) 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 himself 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 for reducing or withholding any arrears payable for that period by virtue of the subsequent determination.
- (7) Circumstances may be prescribed in which a payment on account by virtue of section 5(1)(s) above may be recovered to the extent that it exceeds entitlement.
- (8) Where any amount paid [^{F8}, other than an amount paid in respect of child benefit or guardian's allowance,] is recoverable under—
- (a) subsection (1) above;
 - (b) regulations under subsection (4) or (7) above; or
 - (c) section 72 below,

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it may, without prejudice to any other method of recovery, be recovered by deduction from prescribed benefits.

(9) Where any amount paid in respect of a [^{F9}couple] is recoverable as mentioned in subsection (8) above, it may, without prejudice to any other method of recovery, be recovered, in such circumstances as may be prescribed, by deduction from prescribed benefits payable to either of them.

(10) Any amount recoverable under the provisions mentioned in subsection (8) above shall, if the county court so orders, be enforceable as if it were payable under an order of that court.

[^{F10}(10A) Where—

(a) a jobseeker's allowance is payable to a person from whom any amount is recoverable as mentioned in subsection (8) above; and

(b) that person is subject to a bankruptcy order,

a sum deducted from that benefit under that subsection shall not be treated as income of his for the purposes of the Insolvency (Northern Ireland) Order 1989.]

(11) This section applies to the following benefits—

(a) benefit as defined in section 121 of the Contributions and Benefits Act;

[^{F11}(aa) subject to section 69A below, a jobseeker's allowance;]

[^{F12}(ab) state pension credit;]

[^{F13}(ac) an employment and support allowance;]

(b) ^{F14} . . . income support;

^{F15}(c)

^{F15}(d)

(e) any social fund payments such as are mentioned in section 134(1)(a) or (2) of the Contributions and Benefits Act; and

[^{F16}(ea) health in pregnancy grant; and]

(f) child benefit.

[^{F17}(12) In this section, “couple” has the meaning given by section 133(1) of the Contributions and Benefits Act.]

Textual Amendments

F1 S. 69(2) substituted (24.7.1996) by 1996 c. 51, s. 2(2)(5)

F2 Words in s. 69(2) inserted (5.7.1999, 6.9.1999, 5.10.1999, 18.10.1999 and 29.11.1999 for different purposes, otherwise prosp. by S.I. 1998/1506 (N.I. 10), arts. 1, 78(1), **Sch. 6**, para. 62(1); S.R. 1999/310, art. 2(1)(b), **Sch. 1** (with arts. 4, 14); S.R. 1999/371, art. 2(b), **Sch. 1** (with arts. 4, 18); S.R. 1999/407, art. 2(b), **Sch.** (with art. 4); S.R. 1999/428, art. 2(b), **Sch. 1** (with arts. 4, 16) and S.R. 1999/472, art. 2(1), **Sch. 1** (with arts. 20-22) (subject to art. 2(2) of the said S.R. 1999/472)

F3 S. 69(5) repealed (29.6.2007) by Welfare Reform Act (Northern Ireland) 2007 (c. 2), ss. 41(2), 60(2)(a), **Sch. 8** and expressed to be further repealed by 2007 (c. 5), ss. 45(2), 70(1), Sch. 8 (with s. 45(4))

F4 S. 69(5A) inserted (24.7.1996) by 1996 c. 51, s. 2(4)(5)

F5 Words in s. 69(5A) substituted (29.6.2007) by Welfare Reform Act (Northern Ireland) 2007 (c. 2), ss. 41(3), 60(2)(a)

F6 Words in s. 69(5A) substituted (3.7.2007) by Welfare Reform Act 2007 (c. 5), ss. 45(3), 70(1) (with s. 45(4))

F7 Words in s. 69(5A) substituted (5.7.1999, 6.9.1999, 5.10.1999, 18.10.1999 and 29.11.1999 for different purposes, otherwise prosp.) by S.I. 1998/1506 (N.I. 10), arts. 1, 78(1), **Sch. 6 para. 62(3)**; S.R.

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- 1999/310, art. 2(1)(b), **Sch. 1** (with arts. 4, 14); S.R. 1999/371, art. 2(b), **Sch. 1** (with arts. 4, 18); S.R. 1999/407, art. 2(b), **Sch.** (with art. 4); S.R. 1999/428, art. 2(b), **Sch. 1** (with arts. 4, 16) and S.R. 1999/472, art. 2(1), **Sch. 1** (with arts. 20-22) (subject to art. 2(2) of the said S.R. 1999/472)
- F8** Words in s. 69(8) inserted (26.2.2003 for specified purposes, 1.4.2003 for specified purposes, 7.4.2003 in so far as not already in force) by **Tax Credits Act 2002 (c. 21)**, s. 61, **Sch. 4 para. 8**; S.I. 2003/392, **art. 2** (subject to savings in art. 3)
- F9** Words in s. 69(9) substituted (5.12.2005) by **Civil Partnership Act 2004 (c. 33)**, s. 263(8)(d), **Sch. 24 para. 110(2)**; S.I. 2005/3255, art. 2(1), **Sch.**
- F10** S. 69(10A) inserted (7.10.1996) by S.I. 1995/2705 (N.I. 15), **art. 33(1)**; S.R. 1996/401, **art. 2**,
- F11** S. 69(11)(aa) inserted (7.10.1996) by S.I. 1995/2705 (N.I. 15), art. 33(1), **Sch. 2**, para. 31; S.R. 1996/401, **art. 2**
- F12** S. 69(11)(ab) inserted (2.12.2002 for certain purposes, 6.10.2003 in so far as not already in force) by **State Pension Credit Act (Northern Ireland) 2002 (c. 14)**, ss. 14, 21(2), **Sch. 2 Pt. 2 para. 10**; S.R. 2002/366, **art. 2(1)(I)**; S.R. 2003/373, art. 2
- F13** S. 69(11)(ac) inserted (1.7.2008 for specified purposes, 27.10.2008 in so far as not already in force) by **Welfare Reform Act (Northern Ireland) 2007 (c. 2)**, s. 60(1), **Sch. 3 para. 4(6)**; S.R. 2008/276, art. 2(2)(c), **Sch. Pt. 1**
- F14** Words in s. 69(11)(b) repealed (7.10.1996) by S.I. 1995/2705 (N.I. 15), art. 40(2), **Sch. 3**; S.R. 1996/401, **art. 2**
- F15** S. 69(11)(c)(d) repealed (8.4.2003) by **Tax Credits Act 2002 (c. 21)**, s. 61, **Sch. 6**; S.I. 2003/962, art. 2(4)(e), **Sch. 2** (with art. 3)
- F16** S. 69(11)(ea) inserted (21.7.2008 for specified purposes, 1.1.2009 in so far as not already in force) by **Health and Social Care Act 2008 (c. 14)**, **ss. 135(4)**, 170; S.I. 2008/3137, art. 2
- F17** S. 69(12) inserted (5.12.2005) by **Civil Partnership Act 2004 (c. 33)**, s. 263(8)(d), **Sch. 24 para. 110(3)**; S.I. 2005/3255, art. 2(1), **Sch.**

Modifications etc. (not altering text)

- C2** S. 69 modified (5.10.1999) by 1999 c. 10, ss. 2, 20(2), **Sch. 2 paras. 10(1)**
- C3** S. 69 modified (21.7.2008 for specified purposes, 1.1.2009 in so far as not already in force) by **Health and Social Care Act 2008 (c. 14)**, **ss. 135(5)**, 170; S.I. 2008/3137, art. 2

[^{F18}69ZA Overpayments out of the social fund.

- (1) Subject to subsection (2) below, section 69 above shall apply in relation to social fund payments to which this section applies as it applies in relation to payments made in respect of benefits to which that section applies.
- (2) Section 69 above as it so applies shall have effect as if—
- (a) in ^{F19}... subsection (5A), for the words “reversed or varied on an appeal or has been revised under Article 10 or superseded under Article 11” there were substituted the words “revised on a review under Article 38”;
- ^{F20}(b)
- (c) subsections (7) and (10A) were omitted.
- (3) This section applies to social fund payments such as are mentioned in section 134(1)(b) of the Contributions and Benefits Act.]

Textual Amendments

- F18** S. 69ZA inserted (5.10.1998) by S.I. 1998/1506 (N.I. 10), **art. 71(1)**; S.R. 1998/312, **art. 2(c)**
- F19** Words in s. 69ZA(2)(a) repealed (29.6.2007) by **Welfare Reform Act (Northern Ireland) 2007 (c. 2)**, s. 60(2)(d), **Sch. 8**

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F20 S. 69ZA(2)(b) repealed (29.6.2007) by Welfare Reform Act (Northern Ireland) 2007 (c. 2), s. 60(2)(d), Sch. 8

Modifications etc. (not altering text)

C4 S. 69ZA modified (1.7.1998) by S.I. 1998/1506 (N.I. 10), arts. 1(3)(c)(d), 77, Sch. 5 para. 8

[^{F21} Jobseeker's Allowance]

Textual Amendments

F21 S. 69A and the preceding cross-heading inserted (7.10.1996) by S.I. 1995/2705 (N.I. 15), art. 20; S.R. 1996/401, art. 2

69A [^{F22} Recovery of jobseeker's allowance: severe hardship cases.]

- (1) Where—
 - (a) a severe hardship direction is revoked; and
 - (b) it is determined by [^{F23}the Department] that—
 - (i) whether fraudulently or otherwise, any person has misrepresented, or failed to disclose, any material fact; and
 - (ii) in consequence of the failure of misrepresentation, payment of a jobseeker's allowance has been made during the relevant period to the person to whom the direction related, [^{F23}the Department] may determine that [^{F24}it] is entitled to recover the amount of the payment.
- (2) In this section—

“severe hardship direction” means a direction given under Article 18 of the Jobseekers (Northern Ireland) Order 1995; and

“the relevant period” means—

 - (a) if the revocation is under Article 18(3)(a) of that Order, the period beginning with the date of the change of circumstances and ending with the date of the revocation; and
 - (b) if the revocation is under Article 18(3)(b) or (c) of that Order, the period during which the direction was in force.
- (3) Where a severe hardship direction is revoked, the Department may certify whether there has been misrepresentation of a material fact or failure to disclose a material fact.
- (4) If the Department certifies that there has been such misrepresentation or failure to disclose, it may certify—
 - (a) who made the misrepresentation or failed to make the disclosure; and
 - (b) whether or not a payment of jobseeker's allowance has been made in consequence of the misrepresentation or failure.
- (5) If the Department certifies that a payment has been made, it may certify the period during which a jobseeker's allowance would not have been paid but for the misrepresentation or failure to disclose.
- (6) A certificate under this section shall be conclusive as to any matter certified.

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- (7) Subsections (3) and (6) to (10) of section 69 above apply to a jobseeker's allowance recoverable under subsection (1) above as they apply to a jobseeker's allowance recoverable under section 69(1) above.
- (8) The other provisions of section 69 above do not apply to a jobseeker's allowance recoverable under subsection (1) above.

Textual Amendments

- F22** S. 69A and the preceding cross-heading inserted (7.10.1996) by S.I. 1995/2705 (N.I. 15), **art. 20**; S.R. 1996/401, **art. 2**
- F23** Words in s. 69A(1) substituted (18.10.1999 for certain purposes, otherwise *prosp.*) by S.I. 1998/1506 (N.I. 10), arts. 1(2), 78(1), **Sch. 6 para. 63(a)**; S.R. 1999/428, art. 2(b), **Sch. 1** (with arts. 4, 16)
- F24** Word in s. 69A(1) substituted (18.10.1999 for certain purposes, otherwise *prosp.*) by S.I. 1998/1506 (N.I. 10), arts. 1, 78(1), **Sch. 6 para. 63(b)**; S.R. 1999/428, art. 2(b), **Sch. 1** (with arts. 4, 16)

^{F25}70

Textual Amendments

- F25** S. 70 repealed (7.10.1996) by S.I. 1995/2705, art. 40(2), **Sch. 3**; S.R. 1996/401, **art. 2(b)**

Adjustments of benefits

71 Overlapping benefits - general.

- (1) Regulations may provide for adjusting benefit as defined in section 121 of the Contributions and Benefits Act [^{F26}, or a contribution-based jobseeker's allowance [^{F27} or a contributory employment and support allowance] ,] which is payable to or in respect of any person, or the conditions for [^{F28} receipt of that benefit], where—
- (a) there is payable in his case any such pension, allowance or benefit as is described in subsection (2) below; or
 - (b) the person is, or is treated under the regulations as, undergoing medical or other treatment as an in-patient in a hospital or similar institution.
- (2) Subsection (1)(a) above applies to any pension, allowance or benefit payable out of public funds (including any other benefit as so defined, whether it is of the same or a different description) which is payable to or in respect of—
- (a) the person referred to in subsection (1);
 - (b) that person's [^{F29} wife, husband or civil partner] ;
 - (c) any ^{F30}... dependant of that person; or
 - (d) the [^{F31} wife, husband or civil partner] of any adult dependant of that person.
- (3) Where but for regulations made by virtue of subsection (1)(a) above two persons would both be entitled to an increase of benefit in respect of a third person, regulations may make provision as to their priority.
- [^{F32}(4) Regulations may provide for adjusting—
- (a) benefit as defined in section 121 of the Contributions and Benefits Act; ^{F33}...

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- (b) a contribution-based jobseeker's allowance,^[F34] or
 - (c) a contributory employment and support allowance,[]]
- payable to or in respect of any person where there is payable in his case any such benefit as is described in subsection (5) below.]
- (5) Subsection (4) above applies to any benefit payable under the legislation of any member State other than the United Kingdom which is payable to or in respect of—
- (a) the person referred to in that subsection;
 - (b) that person's ^[F35]wife, husband or civil partner] ;
 - (c) any ^{F36}... dependant of that person; or
 - (d) the ^[F37]wife, husband or civil partner] of any adult dependant of that person.

Textual Amendments

- F26** Words in s. 71(1) inserted (17.7.1996) by S.I. 1995/2705, art. 40(1), **Sch. 2 para. 32(2)(a)**; S.R. 1996/285, art. 2, **Sch.**
- F27** Words in s. 71(1) inserted (1.7.2008 for specified purposes, 27.10.2008 in so far as not already in force) by **Welfare Reform Act (Northern Ireland) 2007 (c. 2)**, s. 60(1), **Sch. 3 para. 4(7)(a)**; S.R. 2008/276, art. 2(2)(c), **Sch. Pt. 1**
- F28** Words in s. 71(1) substituted (17.7.1996) by S.I. 1995/2705, art. 40(1), **Sch. 2 para. 32(2)(b)**; S.R. 1996/285, art. 2, **Sch.**
- F29** Words in s. 71(2)(b) substituted (5.12.2005) by **Civil Partnership Act 2004 (c. 33)**, s. 263(8)(d), **Sch. 24 para. 111**; S.I. 2005/3255, art. 2(1), **Sch.**
- F30** Words in s. 71(2)(c) repealed (10.4.2006) by **Child Benefit Act 2005 (c. 6)**, s. 6(2), **Sch. 1 para. 47, Sch. 2 Pt. 2**
- F31** Words in s. 71(2)(d) substituted (5.12.2005) by **Civil Partnership Act 2004 (c. 33)**, s. 263(8)(d), **Sch. 24 para. 111**; S.I. 2005/3255, art. 2(1), **Sch.**
- F32** S. 71(4) substituted (17.7.1996) by S.I. 1995/2705, art. 40(1), **Sch. 2 para. 32(3)**; S.R. 1996/285, art. 2, **Sch.**
- F33** Word in s. 71(4)(a) repealed (27.10.2008) by **Welfare Reform Act (Northern Ireland) 2007 (c. 2)**, s. 60(1), **Sch. 8**; S.R. 2008/276, art. 2(2)(d), **Sch. Pt. 2**
- F34** S. 71(4)(c) and word added (1.7.2008 for specified purposes, 27.10.2008 in so far as not already in force) by **Welfare Reform Act (Northern Ireland) 2007 (c. 2)**, s. 60(1), **Sch. 3 para. 4(7)(b)**; S.R. 2008/276, art. 2(2)(c), **Sch. Pt. 1**
- F35** Words in s. 71(5)(b) substituted (5.12.2005) by **Civil Partnership Act 2004 (c. 33)**, s. 263(8)(d), **Sch. 24 para. 111**; S.I. 2005/3255, art. 2(1), **Sch.**
- F36** Words in s. 71(5)(c) repealed (10.4.2006) by **Child Benefit Act 2005 (c. 6)**, s. 6(2), **Sch. 1 para. 47, Sch. 2 Pt. 2**
- F37** Words in s. 71(5)(d) substituted (5.12.2005) by **Civil Partnership Act 2004 (c. 33)**, s. 263(8)(d), **Sch. 24 para. 111**; S.I. 2005/3255, art. 2(1), **Sch.**

72 Income support and other payments.

- (1) Where—
- (a) a payment by way of prescribed income is made after the date which is the prescribed date in relation to the payment; and
 - (b) it is determined that an amount which has been paid by way of income support ^[F38], an income-based jobseeker's allowance ^[F39], state pension credit or an income-related employment and support allowance]] would not have been paid if the payment had been made on the prescribed date,

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the Department shall be entitled to recover that amount from the person to whom it was paid.

(2) Where—

- (a) a prescribed payment which apart from this subsection falls to be made from public funds in the United Kingdom or under the law of any other member State is not made on or before the date which is the prescribed date in relation to the payment; and
- (b) it is determined that an amount (“the relevant amount”) has been paid by way of income support [F40, an income-based jobseeker’s allowance [F41, state pension credit or an income-related employment and support allowance]] that would not have been paid if the payment mentioned in paragraph (a) above had been made on the prescribed date,

then—

- (i) in the case of a payment from public funds in the United Kingdom, the authority responsible for making it may abate it by the relevant amount; and
- (ii) in the case of any other payment, the Department shall be entitled to receive the relevant amount out of the payment.

(3) Where—

- (a) a person (in this subsection referred to as A) is entitled to any prescribed benefit for any period in respect of another person (in this subsection referred to as B); and
- (b) either—
 - (i) B has received income support [F42, an income-based jobseeker’s allowance or an income-related employment and support allowance] for that period; or
 - (ii) B was, during that period, a member of the same family as some person other than A who received income support [F42, an income-based jobseeker’s allowance or an income-related employment and support allowance] for that period; and
- (c) the amount of the income support [F43, an income-based jobseeker’s allowance or an income-related employment and support allowance] has been determined on the basis that A has not made payments for the maintenance of B at a rate equal to or exceeding the amount of the prescribed benefit,

the amount of the prescribed benefit may, at the discretion of the authority administering it, be abated by the amount by which the amounts paid by way of income support [F44, an income-based jobseeker’s allowance or an income-related employment and support allowance] exceed what it is determined that they would have been had A, at the time the amount of the income support [F44, an income-based jobseeker’s allowance or an income-related employment and support allowance] was determined, been making payments for the maintenance of B at a rate equal to the amount of the prescribed benefit.

(4) Where an amount could have been recovered by abatement by virtue of subsection (2) or (3) above but has not been so recovered, the Department may recover it otherwise than by way of abatement—

- (a) in the case of an amount which could have been recovered by virtue of subsection (2) above, from the person to whom it was paid; and

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- (b) in the case of an amount which could have been recovered by virtue of subsection (3) above, from the person to whom the prescribed benefit in question was paid.
- (5) Where a payment is made in a currency other than sterling, its value in sterling shall be determined for the purposes of this section in accordance with regulations.

Textual Amendments

- F38** Words in s. 72(1)(b) substituted (2.12.2002 for certain purposes, 6.10.2003 in so far as not already in force) by [State Pension Credit Act \(Northern Ireland\) 2002 \(c. 14\), ss. 14, 21\(2\), Sch. 2 para. 11\(a\); S.R. 2002/366, art. 2; S.R. 2003/373, art. 2](#)
- F39** Words in s. 72(1)(b) substituted (1.7.2008 for specified purposes, 27.10.2008 in so far as not already in force) by [Welfare Reform Act \(Northern Ireland\) 2007 \(c. 2\), s. 60\(1\), Sch. 3 para. 4\(8\)\(a\); S.R. 2008/276, art. 2\(2\)\(c\), Sch. Pt. 1](#)
- F40** Words in s. 72(2)(b) substituted (2.12.2002 for specified purposes, 6.10.2003 in so far as not already in force) by [State Pension Credit Act \(Northern Ireland\) 2002 \(c. 14\), ss. 14, 21\(2\), Sch. 2 para. 11\(b\); S.R. 2002/366, art. 2; S.R. 2003/373, art. 2](#)
- F41** Words in s. 72(2)(b) substituted (1.7.2008 for specified purposes, 27.10.2008 in so far as not already in force) by [Welfare Reform Act \(Northern Ireland\) 2007 \(c. 2\), s. 60\(1\), Sch. 3 para. 4\(8\)\(a\); S.R. 2008/276, art. 2\(2\)\(c\), Sch. Pt. 1](#)
- F42** Words in s. 72(3)(b) substituted (1.7.2008 for specified purposes, 27.10.2008 in so far as not already in force) by [Welfare Reform Act \(Northern Ireland\) 2007 \(c. 2\), s. 60\(1\), Sch. 3 para. 4\(8\)\(b\); S.R. 2008/276, art. 2\(2\)\(c\), Sch. Pt. 1](#)
- F43** Words in s. 72(3)(c) substituted (27.10.2008) by [The Employment and Support Allowance \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2008 \(S.R. 2008/413\), regs. 1\(1\), 2](#)
- F44** Words in s. 72(3) substituted (27.10.2008) by [The Employment and Support Allowance \(Miscellaneous Amendments\) Regulations \(Northern Ireland\) 2008 \(S.R. 2008/413\), regs. 1\(1\), 2](#)

[72A] ^{F45}Payment of benefit where maintenance payments collected by Department.

- (1) This section applies where—
- a person (“the claimant”) is entitled to a benefit to which this section applies;
 - the Department is collecting periodical payments of child or spousal maintenance made in respect of the claimant or a member of the claimant’s family; and
 - the inclusion of any such periodical payment in the claimant’s relevant income would, apart from this section, have the effect of reducing the amount of the benefit to which the claimant is entitled.
- (2) The Department may, to such extent as it considers appropriate, treat any such periodical payment as not being relevant income for the purposes of calculating the amount of benefit to which the claimant is entitled.
- (3) The Department may, to the extent that any periodical payment collected by it is treated as not being relevant income for those purposes, retain the whole or any part of that payment.
- (4) Any sum retained by the Department under subsection (3) shall be paid by the Department into the Consolidated Fund.
- (5) In this section—
- “child” means a person under the age of 16.

Status: Point in time view as at 06/04/2012.

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“child maintenance”, “spousal maintenance” and “relevant income” have such meaning as may be prescribed;

[^{F46}“couple” has the meaning given by section 133(1) of the Contributions and Benefits Act;]

“family” means—

- (a) a [^{F47}couple] ;
- (b) a [^{F47}couple] and a member of the same household for whom one of them is, or both are, responsible and who is a child or a person of a prescribed description;
- (c) except in prescribed circumstances, a person who is not a member of a [^{F47}couple] and a member of the same household for whom that person is responsible and who is a child or a person of a prescribed description;

F48 ...
F48 ...

- (6) For the purposes of this section, the Department may by regulations make provision as to the circumstances in which—
 - (a) persons are to be treated as being or not being members of the same household;
 - (b) one person is to be treated as responsible or not responsible for another.
- (7) The benefits to which this section applies are income support, an income-based jobseeker’s allowance [^{F49}, an income-related employment and support allowance] and such other benefits (if any) as may be prescribed.]

Textual Amendments

- F45** S. 72A inserted (16.11.1995) by S.I. 1995/2702 (N.I. 13), **art. 18**; S.I. 1995/428, **art. 2**, **Sch.**
- F46** Words in s. 72A(5) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(8)(d), **Sch. 24 para. 112(a)**; S.I. 2005/3255, **art. 2(1)**, **Sch.**
- F47** Words in s. 72A(5) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(8)(d), **Sch. 24 para. 112(b)**; S.I. 2005/3255, **art. 2(1)**, **Sch.**
- F48** Words in s. 72A(5) repealed (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(8)(d), **Sch. 24 para. 112(c)**, **Sch. 30**; S.I. 2005/3255, **art. 2(1)**, **Sch.**
- F49** Words in s. 72A(7) inserted (27.10.2008) by Welfare Reform Act (Northern Ireland) 2007 (c. 2), s. 60(1), **Sch. 3 para. 4(9)**; S.R. 2008/276, **art. 2(2)(d)**, **Sch. Pt. 2**

Housing benefit

73 Overpayments of housing benefit.

- (1) Except where regulations otherwise provide, any amount of housing benefit [^{F50}determined in accordance with regulations to have been]paid in excess of entitlement may be recovered by the Department, the Department of the Environment or by the Housing Executive ^{F51}. . . .
- (2) Regulations may require the Department of the Environment or the Housing Executive to recover such an amount in such circumstances as may be prescribed.
- [^{F52}(3) An amount recoverable under this section shall be recoverable -
 - (a) except in such circumstances as may be prescribed, from the person to whom it was paid; and

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- (b) where regulations so provide, from such other person (as well as, or instead of, the person to whom it was paid) as may be prescribed.]
- (4) Any amount recoverable under this section may, without prejudice to any other method of recovery, be recovered by deduction from prescribed benefits.
- [^{F53}(5) Where an amount paid to a person on behalf of another person is recoverable under this section, subsections (3) and (4) above authorise its recovery from the person to whom it was paid by deduction—
- (a) from prescribed benefits to which he is entitled;
 - (b) from prescribed benefits paid to him to discharge (in whole or in part) an obligation owed to him by the person on whose behalf the recoverable amount was paid; or
 - (c) from prescribed benefits paid to him to discharge (in whole or in part) an obligation owed to him by any other person.
- (6) Where an amount is recovered as mentioned in paragraph (b) of subsection (5) above, the obligation specified in that paragraph shall in prescribed circumstances be taken to be discharged by the amount of the deduction; and where an amount is recovered as mentioned in paragraph (c) of that subsection, the obligation specified in that paragraph shall in all cases be taken to be so discharged.
- (7) Where any amount recoverable under this section is to be recovered otherwise than by deduction from prescribed benefits it shall, if the county court so orders, be enforceable as if it were payable under an order of that court.]

Textual Amendments

- F50** Words in s. 73(1) inserted (1.7.1997) by S.I. 1997/1182 (N.I. 11), art. 19(1), **Sch. 1 para. 2**; S.R. 1997/316, art. 2, **Sch.**
- F51** Words in s. 73(1) repealed (1.7.1997) by S.I. 1997/1182 (N.I. 11), art. 19(2), **Sch. 2**; S.R. 1997/316, art. 2, **Sch.**
- F52** S. 73(3) substituted (22.11.2000 for certain purposes, otherwise 1.10.2001) by 2000 c. 4 (N.I.), s. 62 (with s. 66(6)); S.R. 2000/358, art. 2(b), **Sch. Pt. II**; S.R. 2001/249, **art. 2(c)**
- F53** S. 73(5)-(7) added (8.10.1997 for certain purposes, otherwise 3.11.1997) by S.I. 1997/1182 (N.I. 11), **art. 15**; S.R. 1997/449, **art. 2**

Modifications etc. (not altering text)

- C5** S. 73: functions transferred (1.12.1999) from the Department of the Environment to the Department of Finance and Personnel by S.R. 1999/481, art. 6(b), **Sch. 4 Pt. II**
- C6** S. 73(1)(2) applied (with modifications) (1.4.2007) by The Rate Relief (Qualifying Age) Regulations (Northern Ireland) 2007 (S.R. 2007/203), regs. 1(1), **31**
- C7** S. 73(1)(2) applied (with modifications) (1.4.2007) by The Rate Relief (General) Regulations (Northern Ireland) 2007 (S.R. 2007/204), regs. 1(1), **32**
- C8** S. 73(3)(a)(b) applied (with modifications) (1.4.2007) by The Rate Relief (General) Regulations (Northern Ireland) 2007 (S.R. 2007/204), regs. 1(1), **32**
- C9** S. 73(3)(a)(b) applied (with modifications) (1.4.2007) by The Rate Relief (Qualifying Age) Regulations (Northern Ireland) 2007 (S.R. 2007/203), regs. 1(1), **31**
- C10** S. 73(7) applied (with modifications) (1.4.2007) by The Rate Relief (Qualifying Age) Regulations (Northern Ireland) 2007 (S.R. 2007/203), regs. 1(1), **31**
- C11** S. 73(7) applied (with modifications) (1.4.2007) by The Rate Relief (General) Regulations (Northern Ireland) 2007 (S.R. 2007/204), regs. 1(1), **32**

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Social fund awards

74 Recovery of social fund awards.

- (1) A social fund award which is repayable shall be recoverable by the Department.
- (2) Without prejudice to any other method of recovery, the Department may recover an award by deduction from prescribed benefits.
- (3) The Department may recover an award—
 - (a) from the person to or for the benefit of whom it was made;
 - (b) where that person is a member of a [^{F54}couple] , from the other member of the couple;
 - (c) from a person who is liable to maintain the person by or on behalf of whom the application for the award was made or any person in relation to whose needs the award was made.

[^{F55}(3A) Where—

- (a) a jobseeker’s allowance is payable to a person from whom an award is recoverable under subsection (3) above; and
 - (b) that person is subject to a bankruptcy order, a sum deducted from that benefit under subsection (2) above shall not be treated as income of his for the purposes of the Insolvency (Northern Ireland) Order 1989.]
- (4) Payments to meet funeral expenses may in all cases be recovered, as if they were funeral expenses, out of the estate of the deceased, and (subject to section 69 above) by no other means.

[^{F56}(5) In this section, “couple” has the meaning given by section 133(1) of the Contributions and Benefits Act.]

- (6) For the purposes of this section—
- (a) a man shall be liable to maintain his wife [^{F57}or civil partner] and any children of whom he is the father;
 - (b) a woman shall be liable to maintain her husband [^{F58}or civil partner] and any children of whom she is the mother;
 - (c) a person shall be liable to maintain another person throughout any period in respect of which the ^{M1}first-mentioned person has, on or after 24th June 1980 (the date of the making of the Social Security (Northern Ireland) Order 1980) and either alone or jointly with a further person, given an undertaking in writing in pursuance of immigration rules within the meaning of the ^{M2}Immigration Act 1971 to be responsible for the maintenance and accommodation of the other person; and
 - (d) “child” includes a person who has attained the age of 16 but not the age of 19 and in respect of whom either parent, or some person acting in the place of either parent, is receiving income support [^{F59}or an income-based jobseeker’s allowance].

[^{F60}(7) Any reference in subsection (6) to children of whom the man or the woman is the father or the mother shall be construed in accordance with Article 155 of the Children (Northern Ireland) Order 1995.]

- (8) A document bearing a certificate which—
- (a) is signed by a person authorised in that behalf by the Secretary of State; and

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(b) states that the document apart from the certificate is, or is a copy of, such an undertaking as is mentioned in subsection (6)(c) above,
shall be conclusive of the undertaking in question for the purposes of this section and section 101 below; and a certificate purporting to be so signed shall be deemed to be so signed until the contrary is proved.

Textual Amendments

- F54** Words in s. 74(3)(b) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(8)(d), **Sch. 24 para. 113(2)**; S.I. 2005/3255, art. 2(1), Sch.
- F55** S. 74(3A) inserted (7.10.1996) by S.I. 1995/2705 (N.I. 15), **art. 33(2)**; S.R. 1996/401, **art. 2**,
- F56** S. 74(5) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(8)(d), **Sch. 24 para. 113(3)**; S.I. 2005/3255, art. 2(1), Sch.
- F57** Words in s. 74(6)(a) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(8)(d), **Sch. 24 para. 113(4)(a)**; S.I. 2005/3255, art. 2(1), Sch.
- F58** Words in s. 74(6)(b) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(8)(d), **Sch. 24 para. 113(4)(b)**; S.I. 2005/3255, art. 2(1), Sch.
- F59** Words in s. 74(6) inserted (17.7.1996) by S.I. 1995/2705 (N.I. 15), art. 40(1), **Sch. 2**, para. 34; S.R. 1996/285, art. 2, **Sch.**
- F60** S. 74(7) substituted (1.7.1995) by S.I. 1995/755 (N.I. 2), art. 185(1), **Sch. 9 para. 186**; S.R. 1995/248, **art. 2**

Marginal Citations

- M1** S.I. 1980/870 (N.I. 8).
- M2** 1971 c. 77.

Great Britain payments

75 Recovery of Great Britain payments.

Without prejudice to any other method of recovery—

- (a) amounts recoverable under any statutory provision having effect in Great Britain and corresponding to a statutory provision mentioned in section 69(8) above shall be recoverable by deduction from benefits prescribed under that subsection;
- (b) amounts recoverable under any statutory provision having effect in Great Britain and corresponding to section 73 above shall be recoverable by deduction from benefits prescribed under subsection (4) of that section; and
- (c) amounts recoverable under Part III of the Great Britain Administration Act shall be recoverable by deduction from benefits prescribed under subsection (2) of section 74 above and subsection (3) of that section shall have effect in relation to such awards as it has effect in relation to awards out of the social fund under this Act.

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Adjustment of child benefit

76 Child benefit - overlap with benefits under legislation of other member States.

Regulations may provide for adjusting child benefit payable in respect of any child [^{F61}or qualifying young person] in respect of whom any benefit is payable under the legislation of any member State other than the United Kingdom.

Textual Amendments

F61 Words in s. 76 inserted (10.4.2006) by **Child Benefit Act 2005 (c. 6)**, s. 6(2), **Sch. 1 para. 48**

Modifications etc. (not altering text)

C12 S. 76: transfer of functions (1.4.2003 for specified purposes, 7.4.2003 in so far as not already in force) by **Tax Credits Act 2002 (c. 21)**, **ss. 49(2)(c)**, 61 (with s. 54(1)(3)(4)(6)(8)); S.I. 2003/392, art. 2 (subject to savings in art. 3)

Status:

Point in time view as at 06/04/2012.

Changes to legislation:

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