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Social Security Administration (Northern Ireland) Act 1992

1992 CHAPTER 8

PART III

OVERPAYMENTS AND ADJUSTMENTS OF BENEFIT

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—

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

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- (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.
- (5) Except where regulations otherwise provide, an amount shall not be recoverable under ^{F2} . . . regulations under subsection (4) above unless—
- (a) the determination in pursuance of which it was paid has been reversed or varied on an appeal or revised on a review; and
 - (b) it has been determined on the appeal or review that the amount is so recoverable.
- [^{F3}(5A) Except where regulations otherwise provide, an amount shall not be recoverable under subsection (1) above unless the determination in pursuance of which it was paid has been reversed or varied on an appeal or revised on a review.]
- (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 is recoverable under—
- (a) subsection (1) above;
 - (b) regulations under subsection (4) or (7) above; or
 - (c) section 72 below,
- it may, without prejudice to any other method of recovery, be recovered by deduction from prescribed benefits.

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- (9) Where any amount paid in respect of a married or unmarried 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.

[^{F4}(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;
- [^{F5}(aa) subject to section 69A below, a jobseeker's allowance;]
- (b) ^{F6} . . . income support;
- (c) family credit;
- (d) disability working allowance;
- (e) any social fund payments such as are mentioned in section 134(1)(a) or (2) of the Contributions and Benefits Act; and
- (f) child benefit.

Textual Amendments

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

F2 Words in s. 69(5) omitted (24.7.1996) by virtue of 1996 c. 51, s. 2(3)(5)

F3 S. 69(5A) inserted (24.7.1996) by 1996 c. 51, s. 2(4)(5)

F4 S. 69(10A) inserted (7.10.1996) by S.I. 1995/2705 (N.I. 15), art. 33(1); S.R. 1996/401, art. 2,

F5 S. 69(11)(aa) inserted (7.10.1996) by S.I. 1995/2705 (N.I. 15), art. 40(1), Sch. 2, para. 31; S.R. 1996/401, art. 2

F6 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

VALID FROM 05/10/1998

[^{F7}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 paragraph (a) of subsection (5) and subsection (5A), for the words “reversed or varied on an appeal or has been revised under Article 10 or

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superseded under Article 11” there were substituted the words “revised on a review under Article 38”;

- (b) in paragraph (b) of subsection (5), for the words “on the appeal or under that Article” there were substituted the words “on the review”; and
- (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

F7 S. 69ZA inserted (5.10.1998) by S.I. 1998/1506 (N.I. 10), art. 71(1); S.R. 1998/312, art. 2(e)

Modifications etc. (not altering text)

C1 S. 69ZA modified (1.7.1998) by S.I. 1998/1506 (N.I. 10), arts. 1(3)(c)(d), 77, Sch. 5 para. 8

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