



Welfare Reform Act 2012

2012 CHAPTER 5

PART 5

SOCIAL SECURITY: GENERAL

Recovery of benefits

105 Recovery of benefit payments

(1) In the Social Security Administration Act 1992, after section 71ZA there is inserted—

“Recovery of benefit payments

71ZB Recovery of overpayments of certain benefits

- (1) The Secretary of State may recover any amount of the following paid in excess of entitlement—
- universal credit,
 - jobseeker's allowance,
 - employment and support allowance, and
 - except in prescribed circumstances, housing credit (within the meaning of the State Pension Credit Act 2002).
- (2) An amount recoverable under this section is recoverable from—
- the person to whom it was paid, or
 - such other person (in addition to or instead of the person to whom it was paid) as may be prescribed.
- (3) An amount paid in pursuance of a determination is not recoverable under this section unless the determination has been—
- reversed or varied on an appeal, or

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- (b) revised or superseded under section 9 or section 10 of the Social Security Act 1998,
except where regulations otherwise provide.
- (4) Regulations may provide that amounts recoverable under this section are to be calculated or estimated in a prescribed manner.
- (5) Where an amount of universal credit is paid for the sole reason that a payment by way of prescribed income is made after the date which is the prescribed date for payment of that income, that amount is for the purposes of this section paid in excess of entitlement.
- (6) In the case of a benefit referred to in subsection (1) which is awarded to persons jointly, an amount paid to one of those persons may for the purposes of this section be regarded as paid to the other.
- (7) An amount recoverable under this section may (without prejudice to any other means of recovery) be recovered—
 - (a) by deduction from benefit (section 71ZC);
 - (b) by deduction from earnings (section 71ZD);
 - (c) through the courts etc (section 71ZE);
 - (d) by adjustment of benefit (section 71ZF).

71ZC Deduction from benefit

- (1) An amount recoverable from a person under section 71ZB may be recovered by deducting the amount from payments of prescribed benefit.
- (2) Where an amount recoverable from a person under section 71ZB was paid to the person on behalf of another, subsection (1) authorises its recovery from the person by deduction—
 - (a) from prescribed benefits to which the person is entitled,
 - (b) from prescribed benefits paid to the person to discharge (in whole or in part) an obligation owed to that person by the person on whose behalf the recoverable amount was paid, or
 - (c) from prescribed benefits paid to the person to discharge (in whole or in part) an obligation owed to that person by any other person.
- (3) Where an amount is recovered as mentioned in paragraph (b) of subsection (2), the obligation specified in that paragraph shall in prescribed circumstances be taken to be discharged by the amount of the deduction.
- (4) Where an amount is recovered as mentioned in paragraph (c) of subsection (2), the obligation specified in that paragraph shall in all cases be taken to be so discharged.

71ZD Deduction from earnings

- (1) Regulations may provide for amounts recoverable under section 71ZB to be recovered by deductions from earnings.
- (2) In this section “earnings” has such meaning as may be prescribed.
- (3) Regulations under subsection (1) may include provision—

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- (a) requiring the person from whom an amount is recoverable (“the beneficiary”) to disclose details of their employer, and any change of employer, to the Secretary of State;
- (b) requiring the employer, on being served with a notice by the Secretary of State, to make deductions from the earnings of the beneficiary and to pay corresponding amounts to the Secretary of State;
- (c) as to the matters to be contained in such a notice and the period for which a notice is to have effect;
- (d) as to how payment is to be made to the Secretary of State;
- (e) as to a level of earnings below which earnings must not be reduced;
- (f) allowing the employer, where the employer makes deductions, to deduct a prescribed sum from the beneficiary's earnings in respect of the employer's administrative costs;
- (g) requiring the employer to keep records of deductions;
- (h) requiring the employer to notify the Secretary of State if the beneficiary is not, or ceases to be, employed by the employer;
- (i) creating a criminal offence for non-compliance with the regulations, punishable on summary conviction by a fine not exceeding level 3 on the standard scale;
- (j) with respect to the priority as between a requirement to deduct from earnings under this section and—
 - (i) any other such requirement;
 - (ii) an order under any other enactment relating to England and Wales which requires deduction from the beneficiary's earnings;
 - (iii) any diligence against earnings.

71ZE Court action etc

- (1) Where an amount is recoverable under section 71ZB from a person residing in England and Wales, the amount is, if [^{F1}the county court] so orders, recoverable—
 - (a) under section 85 of the County Courts Act 1984, or
 - (b) otherwise as if it were payable under an order of the court.
- (2) Where an amount is recoverable under section 71ZB from a person residing in Scotland, the amount recoverable may be enforced as if it were payable under an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.
- (3) Any costs of the Secretary of State in recovering an amount of benefit under this section may be recovered by him as if they were amounts recoverable under section 71ZB.
- (4) In any period after the coming into force of this section and before the coming into force of section 62 of the Tribunals, Courts and Enforcement Act 2007, subsection (1)(a) has effect as if it read “by execution issued from the county court”.

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71ZF Adjustment of benefit

Regulations may for the purpose of the recovery of amounts recoverable under section 71ZB make provision—

- (a) for treating any amount paid to a 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 arrears payable by virtue of the subsequent determination;
- (b) 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 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 by reducing or withholding any arrears payable for that period by virtue of the subsequent determination.

71ZG Recovery of payments on account

- (1) The Secretary of State may recover any amount paid under section 5(1)(r) (payments on account).
- (2) An amount recoverable under this section is recoverable from—
 - (a) the person to whom it was paid, or
 - (b) such other person (in addition to or instead of the person to whom it was paid) as may be prescribed.
- (3) Regulations may provide that amounts recoverable under this section are to be calculated or estimated in a prescribed manner.
- (4) In the case of a payment on account of a benefit which is awarded to persons jointly, an amount paid to one of those persons may for the purposes of this section be regarded as paid to the other.
- (5) Sections 71ZC, 71ZD and 71ZE apply in relation to amounts recoverable under this section as to amounts recoverable under section 71ZB.

71ZH Recovery of hardship payments etc

- (1) The Secretary of State may recover any amount paid by way of—
 - (a) a payment under section 28 of the Welfare Reform Act 2012 (universal credit hardship payments) which is recoverable under that section,
 - (b) a payment under section 19C of the Jobseekers Act 1995 (jobseeker's allowance hardship payments) which is recoverable under that section,

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- (c) a payment of a jobseeker's allowance under paragraph 8 or 8A of Schedule 1 to that Act (exemptions), where the allowance is payable at a prescribed rate under paragraph 9 of that Schedule and is recoverable under that paragraph,
 - (d) a payment of a jobseeker's allowance under paragraph 10 of that Schedule (claims yet to be determined etc) which is recoverable under that paragraph, or
 - (e) a payment which is recoverable under section 6B(5A)(d) or (7)(d), 7(2A)(d) or (4)(d), 8(3)(aa), (4)(d) or 9(2A)(d) or (4)(d) of the Social Security Fraud Act 2001.
- (2) An amount recoverable under this section is recoverable from—
- (a) the person to whom it was paid, or
 - (b) such other person (in addition to or instead of the person to whom it was paid) as may be prescribed.
- (3) Regulations may provide that amounts recoverable under this section are to be calculated or estimated in a prescribed manner.
- (4) Where universal credit or a jobseeker's allowance is claimed by persons jointly, an amount paid to one claimant may for the purposes of this section be regarded as paid to the other.
- (5) Sections 71ZC to 71ZF apply in relation to amounts recoverable under this section as to amounts recoverable under section 71ZB.”
- (2) In section 71 of that Act (overpayments - general), in subsection (11)(ab), at the end there is inserted “excluding housing credit (see section 71ZB)”.
- (3) In section 115A of that Act (penalty as alternative to prosecution), in subsection (1), after “71” there is inserted “ 71ZB ”.
- (4) In section 115B of that Act (penalty as alternative to prosecution: colluding employers etc)—
- (a) for subsection (4) there is substituted—
 - “(4) If the recipient of a notice under subsection (3) above agrees, in the specified manner, to pay the penalty—
 - (a) the amount of the penalty shall be recoverable from the recipient by the Secretary of State or authority; and
 - (b) no criminal proceedings shall be instituted against the recipient in respect of the conduct to which the notice relates.
- (4A) Sections 71ZC, 71ZD and 71ZE above apply in relation to amounts recoverable under subsection (4)(a) above as to amounts recoverable by the Secretary of State under section 71ZB above (and, where the notice is given by an authority administering housing benefit or council tax benefit, those sections so apply as if references to the Secretary of State were to that authority).”;
- (b) in subsection (9), the definition of “relevant benefit” is repealed.
- (5) In Schedule 1 to the Jobseekers Act 1995 (supplementary provision)—
- (a) in paragraph 9, at the end there is inserted—

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- “(c) as to whether the whole or part of any amount of a jobseeker's allowance which is payable as specified in paragraph (a) is recoverable.”;
- (b) in paragraph 10, for sub-paragraph (5)(a) there is substituted—
- “(a) as to whether the whole or part of any amount paid by virtue of sub-paragraph (1) or (2) is recoverable;”.
- (6) In section 12 of the Social Security Act 1998 (appeal to First-tier Tribunal), in subsection (4), after “71” there is inserted “, 71ZB, 71ZG, 71ZH,”.
- (7) In Schedule 3 to that Act (decisions against which an appeal lies), after paragraph 6 there is inserted—
- “6A A decision as to whether payment of housing credit (within the meaning of the State Pension Credit Act 2002) is recoverable under section 71ZB of the Administration Act.
- 6B A decision as to the amount of payment recoverable under section 71ZB, 71ZG or 71ZH of the Administration Act.”

Textual Amendments

- F1** Words in s. 105(1) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\)](#), [Sch. 9 para. 52](#); [S.I. 2014/954, art. 2\(c\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956, arts. 3-11](#))

Commencement Information

- I1** S. 105(1) in force at 1.7.2012 for specified purposes by [S.I. 2012/1246, art. 2\(4\)\(a\)\(b\)](#)
- I2** S. 105(1) in force at 1.10.2012 for specified purposes by [S.I. 2012/1246, art. 2\(5\)\(a\)](#)
- I3** S. 105(1) in force at 29.4.2013 for specified purposes by [S.I. 2013/358, art. 5\(2\)\(3\)\(a\)\(3A\)](#) (as amended (24.4.2013) by [S.I. 2013/983, art. 23](#))
- I4** S. 105(3)(5)(6) in force at 29.4.2013 by [S.I. 2013/358, art. 5\(2\)\(3\)\(b\)](#) (as amended (24.4.2013) by [S.I. 2013/983, art. 23](#))
- I5** S. 105(4) in force at 1.10.2012 by [S.I. 2012/1246, art. 2\(5\)\(b\)](#)
- I6** S. 105(7) in force at 29.4.2013 for specified purposes by [S.I. 2013/358, art. 5\(2\)\(3\)\(c\)](#) (as amended (24.4.2013) by [S.I. 2013/983, art. 23](#))

106 Deduction from earnings: other cases

- (1) In section 71 of the Social Security Administration Act 1992 (overpayments - general), after subsection (9) there is inserted—
- “(9A) Regulations may provide for amounts recoverable under the provisions mentioned in subsection (8) above to be recovered by deductions from earnings.
- (9B) In subsection (9A) above “earnings” has such meaning as may be prescribed.
- (9C) Regulations under subsection (9A) above may include provision—

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- (a) requiring the person from whom an amount is recoverable (“the beneficiary”) to disclose details of their employer, and any change of employer, to the Secretary of State;
 - (b) requiring the employer, on being served with a notice by the Secretary of State, to make deductions from the earnings of the beneficiary and to pay corresponding amounts to the Secretary of State;
 - (c) as to the matters to be contained in such a notice and the period for which a notice is to have effect;
 - (d) as to how payment is to be made to the Secretary of State;
 - (e) as to a level of earnings below which earnings must not be reduced;
 - (f) allowing the employer, where the employer makes deductions, to deduct a prescribed sum from the beneficiary's earnings in respect of the employer's administrative costs;
 - (g) requiring the employer to keep records of deductions;
 - (h) requiring the employer to notify the Secretary of State if the beneficiary is not, or ceases to be, employed by the employer;
 - (i) creating a criminal offence for non-compliance with the regulations, punishable on summary conviction by a fine not exceeding level 3 on the standard scale;
 - (j) with respect to the priority as between a requirement to deduct from earnings under this section and—
 - (i) any other such requirement;
 - (ii) an order under any other enactment relating to England and Wales which requires deduction from the beneficiary's earnings;
 - (iii) any diligence against earnings.”
- (2) In section 71ZA of that Act (overpayments out of social fund), before subsection (3) there is inserted—
- “(2A) Subsection (9A) of section 71 above as it so applies shall have effect as if the reference to amounts recoverable under the provisions mentioned in subsection (8) of that section were to amounts recoverable under subsections (1) and (4) of that section by virtue of subsection (1) above.”
- (3) In section 75 of that Act (overpayments of housing benefit), at the end there is inserted—
- “(8) Regulations may provide for amounts recoverable under this section to be recovered by deductions from earnings.
- (9) In subsection (8) above “earnings“ has such meaning as may be prescribed.
- (10) Regulations under subsection (8) above may include provision—
- (a) requiring the person from whom an amount is recoverable (“the beneficiary”) to disclose details of their employer, and any change of employer, to the Secretary of State or the authority which paid the benefit;
 - (b) requiring the employer, on being served with a notice by the Secretary of State or the authority which paid the benefit, to make deductions from the earnings of the beneficiary and to pay corresponding amounts to the Secretary of State or that authority;

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- (c) as to the matters to be contained in such a notice and the period for which a notice is to have effect;
 - (d) as to how payment is to be made to the Secretary of State or the authority which paid the benefit;
 - (e) as to a level of earnings below which earnings must not be reduced;
 - (f) allowing the employer, where the employer makes deductions, to deduct a prescribed sum from the beneficiary's earnings in respect of the employer's administrative costs;
 - (g) requiring the employer to keep records of deductions;
 - (h) requiring the employer to notify the Secretary of State or the authority which paid the benefit if the beneficiary is not, or ceases to be, employed by the employer;
 - (i) creating a criminal offence for non-compliance with the regulations, punishable on summary conviction by a fine not exceeding level 3 on the standard scale;
 - (j) with respect to the priority as between a requirement to deduct from earnings under this section and—
 - (i) any other such requirement;
 - (ii) an order under any other enactment relating to England and Wales which requires deduction from the beneficiary's earnings;
 - (iii) any diligence against earnings.”
- (4) In section 78 of that Act (recovery of social fund awards), after subsection (3B) there is inserted—
- “(3C) Regulations may provide for amounts recoverable under subsection (1) above from a person specified in subsection (3) above to be recovered by deductions from earnings.
- (3D) In subsection (3C) above “earnings” has such meaning as may be prescribed.
- (3E) Regulations under subsection (3C) above may include provision referred to in section 71(9C) above.”

Commencement Information

I7 S. 106 in force at 1.7.2012 by S.I. 2012/1246, art. 2(4)(c)

107 Recovery of child benefit and guardian's allowance

- (1) In section 71(8) of the Social Security Administration Act 1992 (recovery of benefits by deduction from prescribed benefits), the words “, other than an amount paid in respect of child benefit or guardian's allowance,” are repealed.
- (2) In section 69(8) of the Social Security Administration (Northern Ireland) Act 1992 (recovery of benefits by deduction from prescribed benefits), the words “, other than an amount paid in respect of child benefit or guardian's allowance,” are repealed.
- (3) In the Tax Credits Act 2002, in Schedule 4, paragraphs 2 and 8 are repealed.

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108 Application of Limitation Act 1980

- (1) Section 38 of the Limitation Act 1980 (interpretation) is amended as follows.
- (2) In subsection (1), in the definition of “action”, at the end there is inserted “(and see subsection (11) below)”.
- (3) At the end there is inserted—
 - “(11) References in this Act to an action do not include any method of recovery of a sum recoverable under—
 - (a) Part 3 of the Social Security Administration Act 1992,
 - (b) section 127(c) of the Social Security Contributions and Benefits Act 1992, or
 - (c) Part 1 of the Tax Credits Act 2002,other than a proceeding in a court of law.”
- (4) The amendments made by this section have effect as if they had come into force at the same time as section 38 of the Limitation Act 1980, except for the purposes of proceedings brought before the coming into force of this section.

Status:

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Changes to legislation:

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