

STATUTORY INSTRUMENTS

1988 No. 664

The Social Security (Payments on account, Overpayments and Recovery) Regulations 1988

PART VI

REVISION OF DETERMINATION AND CALCULATION OF AMOUNT RECOVERABLE

Modifications etc. (not altering text)

- C1** Heading to Part VI modified (1st June, 5th July, 6th September, 5th and 18th October and 29th November 1999) by the Social Security Act 1998, 1999/1958, 2422, 2739, 2860 and 3178, Sch.9 para. 5

Circumstances in which determination need not be revised

12. [^{F1}Section 71(5) or (5A) of the Administration Act] (recoverability dependent on reversal, [^{F2}variation, revision or supersession] of determination) shall not apply where the fact and circumstances of the misrepresentation or non-disclosure do not provide a basis for [^{F3}revising or superseding] the determination under which payment was made.

Textual Amendments

- F1** Words in reg. 12 substituted (18.3.2005) by [Social Security, Child Support and Tax Credits \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/337\)](#), regs. 1, **10(5)**
- F2** Words in reg. 12 substituted (5.10.1999 with effect in accordance with reg. 1(2)) by [The Tax Credits \(Payments on Account, Overpayments and Recovery\) \(Amendment\) Regulations 1999 \(S.I. 1999/2571\)](#), regs. 1(1), **10(a)**
- F3** Words in reg. 12 substituted (5.10.1999 with effect in accordance with reg. 1(2)) by [The Tax Credits \(Payments on Account, Overpayments and Recovery\) \(Amendment\) Regulations 1999 \(S.I. 1999/2571\)](#), regs. 1(1), **10(b)**

Modifications etc. (not altering text)

- C2** Reg. 12 modified (1st June, 5th July, 6th September, 5th and 18th October and 29th November 1999) by the Social Security Act 1998, 1999/1958, 2422, 2739, 2860 and 3178, Sch.9 para. 6

Sums to be deducted in calculating recoverable amounts

13.—[^{F4}(1) Subject to paragraphs (1C) and (2), in calculating an amount recoverable under section 71(1) of the Administration Act or under regulation 11 (“the overpayment”), the adjudicating authority must deduct—

- (a) any amount which has been offset under Part 3;
- (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 their 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 had 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; and
- (e) income-related employment and support allowance.

(1B) In paragraph (1), “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.]

[^{F5}(2) Paragraph (1) shall apply to tax credit only where both—

- (a) the overpayment of benefit referred to in that paragraph, and
- (b) the amount referred to in sub-paragraph (a) of that paragraph,

are tax credit, and with the modification that sub-paragraph (b) of that paragraph is omitted.]

Textual Amendments

F4 Reg. 13(1) - (1C) substituted for reg. 13(1) (8.4.13) by S.I. 2013/384, reg. 1(2), 31(6)

F5 Reg. 13(2) added (5.10.1999 with effect in accordance with reg. 1(2)) by [The Tax Credits \(Payments on Account, Overpayments and Recovery\) \(Amendment\) Regulations 1999 \(S.I. 1999/2571\)](#), regs. 1(1), **11(3)**

Quarterly diminution of capital

14.—(1) For the purposes of section 53(1) of the Act, where income support^[F6], or state pension credit^[F7], or income-based jobseeker’s allowance^[F8], or income-related employment and support allowance] or ^[F9]working families' tax credit or disabled person’s tax credit] has been overpaid in consequence of a misrepresentation as to the capital a claimant possesses or a failure to disclose its existence, the adjudicating authority shall treat that capital as having been reduced at the end of each quarter from the start of the overpayment period by the amount overpaid by way of income support^[F6], or state pension credit^[F7], or income-based jobseeker’s allowance^[F8], or income-related employment and support allowance] or ^[F9]working families' tax credit or disabled person’s tax credit] within that quarter.

(2) Capital shall not be treated as reduced over any period other than a quarter or in any circumstances other than those for which paragraph (1) provides.

(3) In this regulation—

“a quarter” means a period of 13 weeks starting with the first day on which the overpayment period began and ending on the 90th consecutive day thereafter;

“overpayment period” is a period during which income support [^{F10}or an income-based jobseeker’s allowance,] or [^{F9}working families’ tax credit or disabled person’s tax credit] is overpaid in consequence of a misrepresentation as to capital or a failure to disclose its existence.

Textual Amendments

- F6** Words in reg. 14(1) inserted (6.10.2003) by [State Pension Credit \(Consequential, Transitional and Miscellaneous Provisions\) Regulations 2002 \(S.I. 2002/3019\)](#), regs. 1(2)(b), **24(5)**, 24(6)(e)
- F7** Words in reg. 14(1) inserted (7.10.1996) by [The Social Security and Child Support \(Jobseeker’s Allowance\) \(Consequential Amendments\) Regulations 1996 \(S.I. 1996/1345\)](#), regs. 1, **23(5)**, 23(6)(d)
- F8** Words in reg. 14 inserted (27.10.2008) by [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(b), **52(9)**
- F9** Words in reg. 14 substituted (5.10.1999 with effect in accordance with reg. 1(2)) by [The Tax Credits \(Payments on Account, Overpayments and Recovery\) \(Amendment\) Regulations 1999 \(S.I. 1999/2571\)](#), regs. 1(1), **12**
- F10** Words in reg. 14(3) inserted (7.10.1996) by [S.I. 1996/2519](#), reg. 1, 3(2)

Changes to legislation:

There are currently no known outstanding effects for the The Social Security (Payments on account, Overpayments and Recovery) Regulations 1988, PART VI.