

STATUTORY INSTRUMENTS

1988 No. 664

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

PART VII

THE PROCESS OF RECOVERY

Recovery by deduction from prescribed benefits

15.—(1) Subject to regulation 16, where any amount is recoverable under sections 27 or 53(1) of the Act, or under these Regulations, that amount shall be recoverable by the Secretary of State from any of the benefits prescribed by the next paragraph to which the person from whom [^{F1}the amount is determined] to be recoverable is entitled.

(2) The following benefits are prescribed for the purposes of this regulation—

- (a) subject to paragraphs (1) and (2) of regulation 16, any benefit under the Social Security Act 1975 ^{M1};
- [^{F2}(aa) a state pension under Part 1 of the Pensions Act 2014;]
- (b) subject to paragraphs (1) and (2) of regulation 16, any child benefit;
- ^{F3}(c)
- (d) subject to regulation 16, any income support[^{F4}, [^{F5}an employment and support allowance,] or state pension credit][^{F6}or a jobseeker’s allowance].
- ^{F7}(e)
- [^{F8}(f) any incapacity benefit.]
- [^{F9}(g) personal independence payment.]
- [^{F10}(h) universal credit.]

Textual Amendments

- F1** Words in reg. 15(1) substituted by [S.I. 1988/688, reg. 1, 2\(3\)](#)
- F2** [Reg. 15\(2\)\(aa\)](#) inserted (6.4.2016 coming into force in accordance with art. 1(2)(b)) by [The Pensions Act 2014 \(Consequential, Supplementary and Incidental Amendments\) Order 2015 \(S.I. 2015/1985\), arts. 1\(2\)\(b\), 11\(5\)](#)
- F3** [Reg. 15\(2\)\(c\)](#) omitted (5.10.1999 with effect in accordance with reg. 1(2)) by virtue of [The Tax Credits \(Payments on Account, Overpayments and Recovery\) \(Amendment\) Regulations 1999 \(S.I. 1999/2571\), regs. 1\(1\), 13](#)
- F4** Words in reg. 15(2)(d) 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\(6\)\(f\)](#)
- F5** Words in reg. 15(2)(d) inserted (27.10.2008) by [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\), regs. 1\(2\)\(b\), 52\(10\)](#)

- F6** Words in reg. 15(2)(d) substituted (7.10.1996) by S.I. 1996/2519, **reg. 1, 3(3)**
- F7** Reg. 15(2)(e) omitted (5.10.1999 with effect in accordance with reg. 1(2)) by virtue of *The Tax Credits (Payments on Account, Overpayments and Recovery) (Amendment) Regulations 1999* (S.I. 1999/2571), regs. 1(1), **13**
- F8** Reg. 15(2)(f) added (13.4.1995) by *The Social Security (Incapacity Benefit) (Consequential and Transitional Amendments and Savings) Regulations 1995* (S.I. 1995/829), regs. 1(1), **21(3)** (with Pt. III)
- F9** Reg. 15(2)(g) added (8.4.2013) by *The Social Security (Overpayments and Recovery) Regulations 2013* (S.I. 2013/384), regs. 1(2)(c), **31(7)(a)**
- F10** Reg. 15(2)(h) added (29.4.2013) by *The Social Security (Overpayments and Recovery) Regulations 2013* (S.I. 2013/384), regs. 1(3), **31(7)(b)**

Marginal Citations

- M1** 1975 c. 14.

Limitations on deductions from prescribed benefits

16.—(1) Deductions may not be made from entitlement to the benefits prescribed by paragraph (2) except as a means of recovering an overpayment of the benefit from which the deduction is to be made.

(2) The benefits [^{F11}prescribed] for the purposes of paragraph (1) are guardian's allowance, ^{F12}..., and child benefit.

[^{F13}(2A) Paragraphs (3) to (7) do not apply where paragraph (7A) applies.]

(3) Regulation 15 shall apply without limitation to any payment of arrears of benefit other than any arrears caused by the operation of [^{F14}regulation 20 of the Social Security and Child Support (Decisions and Appeals) Regulations 1999 (making of payments which have been suspended)].

(4) Regulation 15 shall apply to the amount of [^{F15}benefit] to which a person is presently entitled only to the extent that there may ^{F16}... be recovered in respect of any one benefit week—

- (a) in a case to which paragraph (5) applies, not more than the amount there specified; and
- (b) in any other case, 3 times 5 per cent. of the personal allowance for a single claimant aged not less than 25, that 5 per cent. being, where it is not a multiple of 5 pence, rounded to the next higher such multiple.

[^{F17}(4A) Paragraph (4) shall apply to the following benefits—

- (a) income support;
- (b) an income-based jobseeker's allowance;
- (c) where, if there was no entitlement to a contribution-based jobseeker's allowance, there would be entitlement to an income-based jobseeker's allowance at the same rate, a contribution-based jobseeker's allowance.]

[^{F18}(d) state pension credit.]

[^{F19}(e) an income-related employment and support allowance;

- (f) where, if there was no entitlement to a contributory employment and support allowance, there would be entitlement to an income-related employment and support allowance at the same rate, a contributory employment and support allowance.]

[^{F20}(5) Where a person responsible for the misrepresentation of or failure to disclose a material fact has, by reason thereof—

- (a) been found guilty of an offence whether under statute or otherwise; or

- (b) made an admission after caution of deception or fraud for the purpose of obtaining benefit; or
- (c) agreed to pay a penalty under section 115A of the Social Security Administration Act 1992 and the agreement has not been withdrawn,

the amount mentioned in paragraph (4)(a) [^{F21}shall, subject to paragraph (5ZA), be 8 times] 5 per cent. of the personal allowance for a single claimant aged not less than 25, that 5 per cent. being, [^{F22}where it is not a multiple of 5 pence, rounded to the next higher such multiple].]

[^{F23}(5ZA) In a case to which paragraph (5) applies, where deductions fall to be made under Schedule 9 to the Claims and Payments Regulations (payments 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).

(5ZB) Paragraph (4)(b) is subject to paragraphs 8 and 9 of Schedule 9 to the Claims and Payments Regulations.]

[^{F24}(5A) Regulation 15 shall apply to an amount of a contribution-based jobseeker's allowance, other than a contribution-based jobseeker's allowance to which paragraph (4) applies in accordance with paragraph (4A)(c), to which a person is presently entitled only to the extent that there may, subject to paragraphs 8 and 9 of Schedule 9 to the Claims and Payments Regulations be recovered in respect of any one benefit week a sum equal to one third of the age-related amount applicable to the claimant under section 4(1)(a) of the Jobseekers Act 1995.

(5B) For the purposes at paragraph (5A) where the sum that would otherwise fall to be deducted includes a fraction of a penny, the sum to be deducted shall be rounded down to the nearest whole penny.]

(6) [^{F25}Where—

- (a) in the calculation of the income of a person to whom income support is payable, the amount of earnings or other income falling to be taken into account is reduced by paragraphs 4 to 9 of Schedule 8 to the Income Support Regulations (sums to be disregarded in the calculation of earnings) or paragraphs 15 and 16 of Schedule 9 to those Regulations (sums to be disregarded in the calculation of income other than earnings); or
- (b) in the calculation of the income of a person to whom income-based jobseeker's allowance is payable, the amount of earnings or other income falling to be taken into account is reduced by paragraphs 5 to 12 of Schedule 6 to the Jobseeker's Allowance Regulations (sums to be disregarded in the calculation of earnings) or paragraphs 15 and 17 of Schedule 7 to those Regulations (sums to be disregarded in the calculation of income other than earnings), [^{F26}or
- (c) in the calculation of the income of a person to whom state pension credit is payable, the amount of earnings or other income falling to be taken into account is reduced in accordance with paragraph 1 of Schedule 4 (sums to be disregarded in the calculation of income other than capital), or Schedule 6 (sums disregarded from claimant's earnings) to the State Pension Credit Regulations,][^{F27}or
- (d) in the calculation of the income of a person to whom income-related employment and support allowance is payable, the amount of earnings or other income falling to be taken into account is reduced by paragraph 7 of Schedule 7 to the Employment and Support Allowance Regulations (sums to be disregarded in the calculation of earnings) or paragraphs 16 and 17 of Schedule 8 to those Regulations (sums to be disregarded in the calculation of income other than earnings),]

the weekly amount] applicable under paragraph (4) may be increased by not more than half the amount of the reduction^{F28}....

(7) Regulation 15 shall not be applied to a specified benefit so as to reduce the benefit in any one benefit week to less than 10 pence.

[^{F29}(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 2013 applies in relation to those deductions as it applies to deductions from universal credit for the recovery of recoverable amounts under those Regulations.]

(8) In this regulation—

[^{F30}“admission after caution” means—

- (i) in England and Wales, an admission after a caution has been administered in accordance with a Code issued under the Police and Criminal Evidence Act 1984;
- (ii) in Scotland, an admission after a caution has been administered, such admission being duly witnessed by two persons;]

“benefit week” means the week corresponding to the week in respect of which the benefit is paid;

[^{F31} “ personal allowance for a single claimant aged not less than 25 ” means—

- (a) in the case of a person who is entitled to [^{F32}an employment and support allowance,] income support or state pension credit, the amount for the time being specified in paragraph 1(1)(e) of column (2) of Schedule 2 to the Income Support Regulations; or
- (b) in the case of a person who is entitled to income-based jobseeker’s allowance, the amount for the time being specified in paragraph 1(1)(e) of column (2) of Schedule 1 to the Jobseeker’s Allowance Regulations;]

[^{F33}“specified benefit” means—

- (a) a jobseeker’s allowance;
- (b) income support when paid alone or together with any incapacity benefit, retirement pension or severe disablement allowance in a combined payment in respect of any period;
- (c) if incapacity benefit, retirement pension or severe disablement allowance is paid concurrently with income support in respect of any period but not in a combined payment, income support and such of those benefits as are paid concurrently;
- (d) state pension credit when paid alone or together with any retirement pension, incapacity benefit or severe disablement allowance in a combined payment in respect of any period;
- ^{F34} ...
- (e) if retirement pension, incapacity benefit or severe disablement allowance is paid concurrently with state pension credit in respect of any period but not in a combined payment, state pension credit and such of those benefits as are paid concurrently, [^{F35}and
- (f) an employment and support allowance,]

but does not include any sum payable by way of child maintenance bonus in accordance with section 10 of the Child Support Act 1995 and the Social Security (Child Maintenance Bonus) Regulations 1996.]

^{F36} ...

Textual Amendments

F11 Word in reg. 16(2) substituted (11.4.88) by S.I. 1988/688, reg. 1, 2(4)

F12 Words in reg. 16(2) omitted (6.4.92) by S.I. 1991/2742, reg. 1(1), 15(7)

- F13** Reg. 16(2A) inserted (8.4.2013) by The Social Security (Overpayments and Recovery) Regulations 2013 (S.I. 2013/384), regs. 1(2)(c), **31(8)(a)**
- F14** Words in reg. 16(3) substituted (18.3.2005) by Social Security, Child Support and Tax Credits (Miscellaneous Amendments) Regulations 2005 (S.I. 2005/337), regs. 1, **10(6)**
- F15** Words in reg. 16(4) substituted (7.10.1996) by S.I. 1996/2519, reg. 1, 3(4)(a)
- F16** Words in reg. 16(4) omitted (6.4.2015) by virtue of The Social Security (Overpayments and Recovery) Amendment Regulations 2015 (S.I. 2015/499), regs. 1, **2(2)**
- F17** Reg. 16(4A) inserted (7/10/1996) by S.I. 1996/2519, reg. 1, 3(4)(b)
- F18** Reg. 16(4A)(d) inserted (6.10.2003) by State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) Regulations 2002 (S.I. 2002/3019), regs. 1(2)(b), **24(4)(a)**
- F19** Reg. 16(4A)(e) - Reg. 16(4A)(f) added (27.10.2008) by Employment and Support Allowance (Consequential Provisions) (No.2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(b), **52(11)(a)**
- F20** Reg. 16(5) substituted (2.10.2000) by The Social Security (Payments on account, Overpayments and Recovery) Amendment Regulations 2000 (S.I. 2000/2336), regs. 1, **2(2)** (with reg. 3)
- F21** Words in reg. 16(5) substituted (6.4.2015) by The Social Security (Overpayments and Recovery) Amendment Regulations 2015 (S.I. 2015/499), regs. 1, **2(3)**
- F22** Words in reg. 16(5) substituted (1.4.2012) by The Social Security (Recovery) (Amendment) Regulations 2012 (S.I. 2012/645), regs. 1(1), **3(1)(b)**
- F23** Reg. 16(5ZA) - Reg. 16(5ZB) inserted (6.4.2015) by The Social Security (Overpayments and Recovery) Amendment Regulations 2015 (S.I. 2015/499), regs. 1, **2(4)**
- F24** Regs. 16(5A)(5B) inserted (7.10.1996) by S.I. 1996/2519, reg. 1, 3(4)(c)
- F25** Words in reg. 16(6) substituted (7.10.1996) by The Social Security and Child Support (Jobseeker's Allowance) (Consequential Amendments) Regulations 1996 (S.I. 1996/1345), regs. 1, **23(4)(b)**
- F26** Reg. 16(6)(c) inserted (6.10.2003) by State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) Regulations 2002 (S.I. 2002/3019), regs. 1(2)(b), **24(4)(b)**
- F27** Reg. 16(6)(d) and preceding word added (27.10.2008) by Employment and Support Allowance (Consequential Provisions) (No.2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(b), **52(11)(b)**
- F28** Words in reg. 16(6) omitted (8.4.2013 for specified purposes, 29.4.2013 for specified purposes) by virtue of The Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013 (S.I. 2013/380), reg. 1(2)(3), **Sch. 3 para. 2**
- F29** Reg. 16(7A) - Reg. 16(7B) inserted (8.4.2013) by The Social Security (Overpayments and Recovery) Regulations 2013 (S.I. 2013/384), regs. 1(2)(c), **31(8)(b)**
- F30** Words in reg. 16(8) inserted (2.10.2000) by The Social Security (Payments on account, Overpayments and Recovery) Amendment Regulations 2000 (S.I. 2000/2336), regs. 1, **2(3)(a)** (with reg. 3)
- F31** Words in reg. 16(8) substituted (6.10.2003) by State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) Regulations 2002 (S.I. 2002/3019), regs. 1(2)(b), **24(4)(c)(i)**
- F32** Words in reg. 16(8) substituted (27.10.2008) by Employment and Support Allowance (Consequential Provisions) (No.2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(b), **52(11)(c)(i)**
- F33** Words in reg. 16(8) substituted (6.10.2003) by State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) Regulations 2002 (S.I. 2002/3019), regs. 1(2)(b), **24(4)(c)(ii)**
- F34** Word in reg. 16(8) omitted (27.10.2008) by virtue of Employment and Support Allowance (Consequential Provisions) (No.2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(b), **52(11)(aa), 52(11)(c)(ii)**
- F35** Words in reg. 16(8) added (27.10.2008) by Employment and Support Allowance (Consequential Provisions) (No.2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(b), **52(11)(bb), 52(11)(c)(ii)**
- F36** Words in reg. 16(8) omitted (2.10.2000) by virtue of The Social Security (Payments on account, Overpayments and Recovery) Amendment Regulations 2000 (S.I. 2000/2336), regs. 1, **2(3)(b)** (with reg. 3)

Recovery from couples

17. In the case of an overpayment of income support^{F37}, or state pension credit^{F38}, or income-based jobseeker's allowance^{F39} or income-related employment and support allowance^{F40} ... to one of ^{F41}a couple], the amount recoverable by deduction, in accordance with regulation 15, may be recovered by deduction from income support^{F37}, or state pension credit^{F38}, or income-based jobseeker's allowance^{F39} or income-related employment and support allowance^{F40} ... payable to either of them, provided that the two of them are ^{F41}a couple] at the date of the deduction.

Textual Amendments

- F37** Words in reg. 17 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)(g)
- F38** Words in reg. 17 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)(f)
- F39** Words in reg. 17 inserted (27.10.2008) by [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(b), **52(12)**
- F40** Words in reg. 17 omitted (5.10.1999 with effect in accordance with reg. 1(2)) by virtue of [The Tax Credits \(Payments on Account, Overpayments and Recovery\) \(Amendment\) Regulations 1999 \(S.I. 1999/2571\)](#), regs. 1(1), **14**
- F41** Words in reg. 17 substituted (5.12.2005) by [The Civil Partnership \(Pensions, Social Security and Child Support\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2877\)](#), art. 1, **Sch. 3 para. 18** (with art. 3)

Changes to legislation:

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