

EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY (CLAIMS AND PAYMENTS) AMENDMENT (NO.2)
REGULATIONS 2010

2010 No. 870

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. **Purpose of the instrument**

The purpose of these amending Regulations is to allow customers to repay a tax credit overpayment or self assessment tax debt by voluntary deductions from their Department for Work and Pensions income-related benefits.

3. **Matters of special interest to the Joint Committee on Statutory Instruments.**

None.

4. **Legislative Context**

4.1 The Department for Work and Pensions and Her Majesty's Revenue and Customs have been taking forward a programme of joint working covering a range of areas where, together, a better service can be delivered to customers. We want to provide for customers a simple no cost method of repaying Government debts.

4.2 As part of this programme of work Her Majesty's Revenue and Customs will trial the recovery of tax credit overpayments or self assessment debts by voluntary deductions from Department for Work and Pensions' benefits. This will be particularly useful for those customers who have no bank account and who may wish to use a repayment method which incurs no charge. Participation in the trial will be voluntary.

4.3 In order to run this trial an amendment needs to be made to the Social Security (Claims and Payments) Regulations 1987 that will enable the Department for Work and Pensions to collect Her Majesty's Revenue and Customs debts.

5. **Territorial Extent and Application**

This instrument applies to all of Great Britain.

6. **European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- *What is being done and why?*

7.1 The amendments to the Social Security (Claims and Payments) Regulations 1987 will allow the recovery of Her Majesty's Revenue and Customs' debt from the following benefits – Income Support, Jobseeker's Allowance (income-based), State Pension Credit, Employment and Support Allowance (income-related).

7.2 The maximum rate of recovery under the regulations is three times 5% of the Income Support (or relevant other income-related benefit) rate for a single person aged 25 years and over (currently $3 \times £3.25 = £9.75$). The maximum rate is reduced by the existence of any other deductions and is subject to the overall maximum for deductions from benefit. It is possible to set the rate of deduction at any level below the maximum. Deduction rates will be agreed voluntarily between Her Majesty's Revenue and Customs and the customer before the debt is referred to the Department for Work and Pensions.

7.3 Her Majesty's Revenue and Customs debt is at the bottom of the current priority list of deductions in so much as all deductions in the priority order will take precedence and reduce the maximum rate of recovery. If the customer is already repaying a Department for Work and Pensions overpayment then no recovery on behalf of Her Majesty's Revenue and Customs will be taken until such time as that debt has been cleared.

7.4 Deductions will only be put in place where both Her Majesty's Revenue and Customs and the debtor agree that this method of recovery is appropriate. The voluntary agreement is a prerequisite to recovery by deduction. The customer can withdraw from this arrangement at any time.

7.5 From the start of the trial staff from Her Majesty's Revenue and Customs will identify 5,000 customers with a new tax credit or self assessment debt. They will liaise with the Department for Work and Pensions staff to establish whether the customers are in receipt of a Department for Work and Pensions income-related benefit, if deductions could be taken and the maximum rate of those deductions.

7.6 Correspondence will then be issued to the customer asking if they would like to participate in the trial that will commence in May 2010. Participation will be on a purely voluntary basis and the letters will make this clear.

7.7 If a customer does not wish to take part in the trial or no reply is received, then no further action regarding the trial will be taken in respect of that customer.

7.8 If a customer replies to correspondence stating he wishes to take part in the trial, Her Majesty's Revenue and Customs staff will liaise with the customer to establish the details of the recovery, and agree the rate of voluntary

recovery. The voluntary agreement is a prerequisite to recovery by deduction. The customer can withdraw from this arrangement at any time.

7.9 Her Majesty's Revenue and Customs will then pass the information to the Department for Work and Pensions who will implement the voluntary deductions from the customer's benefit.

7.10 The change introduced is intended to provide an alternative payment method to around 5,000 joint customers, at a time when many of them are experiencing great financial pressure.

- ***Who will these changes apply to?***

7.11 The changes introduced by this instrument will initially apply to those customers with Her Majesty's Revenue and Customs debt who have volunteered to participate in the trial and who have claimed a relevant Department for Work and Pensions benefit.

- ***Consolidation***

7.12 Informal consolidation will be included in due course in the Departments' "The Law Relating to Social Security" (the Blue Volumes) which is available on the internet at <http://www.dwo.gov.uk/advisers/docs/lawvols/blue/vol/> at no cost to the public.

7.13 It is the Department's intention to consolidate the Social Security (Claims and Payments) Regulations 1987 when time and resources allow.

8. Consultation outcome

8.1 A full public consultation on this legislation was not considered appropriate because there is no policy change. The legislation is simply to enable a trial whereby customers will be offered an alternative channel for making repayments of Her Majesty's Revenue and Customs overpayments. There will be no compulsion upon them to take this up.

8.2 However, officials have informally met customer organisations to seek their views on the proposal. The proposal was broadly well received and concerns raised were acted upon or mitigated. Representatives were aware of cases in the past where both the Department for Works and Pensions and Her Majesty's Revenue and Customs were seeking recovery of debts from the same vulnerable customer. It was hoped that this initiative would stop this happening in cases of those receiving benefit.

8.3 The Regulations were considered by the Social Security Advisory Committee (SSAC) at its meeting on 5 November 2009. The Committee formally consulted

on the Regulations. The Act Paper containing the Explanatory Memorandum to SSAC, the Committee's report and the response from the Secretary of State for Work and Pensions have been laid before Parliament along with these Regulations. A copy of this can be found at <http://www.opsi.gov.uk>

9. Guidance

Guidance on the changes to Regulations will be issued to all staff involved in the trial. Staff not directly involved will receive a circular advising them of the changes so they can respond to any customer enquiries.

10. Impact

10.1 This instrument has no impact on business, charities or voluntary bodies.

10.2 The impact on the public sector is negligible or low as it will primarily involve changes to computer programmes and changes to the provision of advice. These changes will be absorbed into existing resources within both departments.

10.3 A full impact assessment has not been prepared for this instrument.

11. Regulating small business

The legislation does not apply to small business.

12. Monitoring & review

12.1 The Department will monitor the effectiveness of this change through performance data, which will include take up and amount of debt recovered, and customer feedback. The results of the trial will be analysed against customer service, value for money and equality.

12.2 The outcome will be subject to internal review after 24 months and the trial may cease or, legislation may be amended accordingly.

13. Contact

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